

By:

Zaffuini

S.B. No. 1411

A BILL TO BE ENTITLED

AN ACT

relating to zoning around certain sites in Kinney County; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ZONING AROUND CERTAIN SITES IN KINNEY COUNTY

Sec. 231.201. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas and sites and the adjoining and associated lands and environment of Fort Clark, Alamo Village, Kickapoo State Park, and the Seminole Indian Cemetery are or will be frequented for recreational purposes by residents from every part of the state;

(2) orderly and compatible development and use of these areas is of concern to the entire state;

(3) the protection of the scenic character of the area so as to be of continuing value to the moviemaking industry is of concern to the entire state; and

(4) buildings in the area, existing and future, that will be frequented for resort, tourism, or recreational purposes will tend to become congested and to be used in ways that interfere with and that are incompatible with the proper use of the area as a

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1 place of recreation, tourism, or visitation to the detriment of the
2 public health, safety, morals, and general welfare.

3 (b) The powers granted under this subchapter are for the
4 purpose of promoting the public health, safety, peace, morals, and
5 general welfare and encouraging recreation.

6 Sec. 231.202. AREAS SUBJECT TO REGULATION. This subchapter
7 applies to:

8 (1) those unincorporated parts of Kinney County
9 located within three miles of the Seminole Indian Cemetery;

10 (2) those unincorporated parts of Kinney County
11 located within 12 miles of Fort Clark Springs;

12 (3) those unincorporated parts of Kinney County
13 located within 10 miles of Kickapoo State Park; and

14 (4) those unincorporated parts of Kinney County
15 located within 10 miles of Alamo Village.

16 Sec. 231.203. EXTENT OF REGULATIONS; DISTRICTS. (a) The
17 commissioners court order providing for the zoning of a portion of
18 Kinney County shall consist of a zoning district map and zoning
19 regulations.

20 (b) The Commissioners Court of Kinney County, within that
21 portion of the county subject to zoning as provided in this
22 subchapter, may regulate the following:

23 (1) the location and use of buildings, other
24 structures, and land for ranching or agricultural, residential,
25 business, commercial, industrial, or other purposes;

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1 (2) the height, number of stories, and size of
2 buildings and other structures;

3 (3) the density of population expressed in dwelling
4 units per acre;

5 (4) the required quantity of off-street parking;

6 (5) the maximum coverage of land with impervious
7 structures or materials;

8 (6) the percentage of the area of a lot that may be
9 occupied by structures;

10 (7) the intensity of development expressed as spacing
11 and size of lots and structures, required open space, size of yards
12 and courts, and type and size of activity related to traffic
13 generation;

14 (8) the placement of water pumping, storage, and
15 treatment facilities other than for ranching or agricultural
16 purposes; and

17 (9) the placement of treatment and disposal facilities
18 of wastewater and solid waste materials.

19 (c) The commissioners court may divide the area in the
20 county that is subject to this subchapter into zoning districts of
21 a number, shape, size, and type or classification that the court
22 considers best for carrying out or implementing this subchapter.
23 Within each zoning district, the commissioners court may regulate
24 the placement, size, height, and use of buildings and other
25 structures and the use of land. The zoning regulations must be

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1 uniform for each class or kind of building in a district, but the
2 regulations may vary from district to district.

3 (d) The zoning regulations and the zoning district map shall
4 be adopted with reasonable consideration, among other things, for
5 the character of the land assigned to each district and its
6 suitability for particular uses, with a view of achieving the
7 optimum arrangement of the uses of land and distribution of
8 population and conserving the value of buildings, quality of the
9 environment, and quality of the recreational, historical, scenic,
10 and tourist sites, buildings, and facilities throughout the area.

11 Sec. 231.204. COUNTY ZONING COMMITTEE. (a) The county
12 zoning committee is an ad hoc committee consisting of five persons
13 who are residents of Kinney County.

14 (b) The committee is responsible for the preparation of the
15 comprehensive plan and related policy statements and the proposed
16 zoning district map and the zoning regulations.

17 (c) The members of the county zoning committee shall be
18 appointed by the commissioners court, the method of appointment to
19 be determined by the court. One of the five members of the
20 committee shall be a member of the commissioners court who shall
21 serve ex officio and shall be the chair of the zoning committee.
22 The committee may elect a vice-chair from the membership.

23 (d) Minutes of all meetings of the zoning committee shall be
24 recorded and maintained as permanent records of the county. For
25 this purpose, a recording secretary shall be provided to the

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1 committee by the county. Notices of meeting of the county zoning
2 committee shall be given to the members of the commissioners court.

3 (e) On the resignation of a member or termination of
4 membership for any reason, the commissioners court shall, within 30
5 days following the resignation or termination, appoint a
6 replacement member.

7 (f) If the commissioners court finds evidence that the
8 zoning committee has failed to make reasonable progress after a
9 start-up period of 90 days or finds at any time that the members
10 are unable to cooperate with one another or are incapable of
11 producing the desired plan and documents, the commissioners court
12 by an affirmative vote of at least four members may terminate and
13 discharge the zoning committee. In that event, the commissioners
14 court shall appoint new members as prescribed for the original
15 appointments.

16 (g) The commissioners court may appropriate funds for the
17 costs necessary to the functions and responsibilities of the county
18 zoning committee and may employ such staff and consultants as are
19 determined necessary to assist in accomplishing the duties and
20 responsibilities of the committee.

21 (h) When the commissioners court adopts and approves a
22 county zoning district map and zoning regulations, the county
23 zoning committee has completed its duties and responsibilities and
24 ceases to exist.

25 Sec. 231.205. COMPLIANCE WITH COMPREHENSIVE PLAN.

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1 (a) Prior to the preparation and adoption of the zoning district
2 map and zoning regulations, the commissioners court shall adopt a
3 comprehensive plan for the zoned area of the county.

4 (b) The comprehensive plan shall consist of, at a minimum,
5 the following elements:

6 (1) land use;

7 (2) population distribution and density;

8 (3) flood plain management including constraints on
9 land coverage by impervious structures related to accelerated
10 run-off and potential flooding;

11 (4) major streets and thoroughfares; and

12 (5) protection and enhancement of sites and facilities
13 of importance to tourism, recreation, and historic preservation.

14 (c) Both the comprehensive plan and the zoning regulations
15 must be designed to:

16 (1) promote the public health, safety, and general
17 welfare;

18 (2) prevent overcrowding of land;

19 (3) avoid undue concentration of population;

20 (4) provide adequate light and air;

21 (5) lessen congestion in the streets and roads;

22 (6) facilitate adequate provision of transportation,
23 water, sewers, parks, and other public requirements;

24 (7) preserve and enhance the quality of tourist
25 attractions, parks, and historical sites and structures by

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1 preventing the use of land and buildings that may be incompatible
2 with and detrimental to such facilities, buildings, and sites for
3 the continued enjoyment of the people of the state; and

4 (8) assist in developing and making available to the
5 public such areas, sites, parks, and playgrounds as will enrich the
6 quality of tourism and recreation for the residents of this state
7 and other states and nations.

8 (d) The commissioners court shall act to adopt the
9 comprehensive plan after a public hearing on the plan. Notice of
10 the hearing must be published in a newspaper of general circulation
11 in the county not less than 15 days prior to the date of the
12 hearing.

13 Sec. 231.206. PREPARATION, APPROVAL, AND ADOPTION OF THE
14 ZONING DISTRICT MAP AND ZONING REGULATIONS. (a) Following
15 approval and adoption of the comprehensive plan, the zoning
16 committee shall proceed to prepare the proposed zoning district map
17 and zoning regulations. The proposed zoning district map and the
18 zoning regulations shall be prepared based on and consistent with
19 the adopted comprehensive plan.

20 (b) When the proposed zoning district map and zoning
21 regulations are completed, the zoning committee shall hold one or
22 more public hearings on the map and regulations, as determined
23 appropriate. Notice of the hearing must be published in a
24 newspaper of general circulation in the county not less than 15
25 days prior to the date of the hearing.

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1 (c) When the county zoning committee is satisfied with the
2 proposed zoning district map and zoning regulations, it shall
3 approve the map and regulations and recommend to the commissioners
4 court that they be adopted. The commissioners court shall give not
5 less than 15 days prior public notice by publication in a newspaper
6 of general circulation in the county of a public hearing to be held
7 jointly with the zoning committee for the purpose of considering
8 adoption of the zoning district map and zoning regulations. No
9 action to adopt shall be taken at the public hearing. Following
10 the public hearing, the zoning committee may respond to questions
11 or desired changes in the map or regulations requested by the
12 commissioners court. The commissioners court may then set a date
13 for action to adopt the zoning district map and zoning regulations.
14 No further public hearings are required but may be held at the
15 discretion of the commissioners court.

16 Sec. 231.207. PERMITS, CERTIFICATES, FEES.

17 (a) Administration of zoning regulations shall include an
18 examination of an applicant's proposed use of land and buildings;
19 if the proposed use is found to be in compliance with the zoning
20 regulations and zoning district map, the county shall issue a
21 permit to use or construct. When the use or construction is
22 completed and in place, the applicant shall request an inspection.
23 On inspection by an official of the county and a finding that the
24 use or construction complies with the terms of the permit issued,
25 the county shall issue a certificate of compliance and occupancy to

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1 the applicant. The county may charge an application fee not to
2 exceed \$100.

3 (b) Any use of premises or construction or use of a
4 building, other than for ranching and agricultural purposes, that
5 is located within the zoned portion of the county that occurs
6 subsequent to the adoption by the county of the zoning district map
7 and zoning regulations which does not comply with this procedure
8 for permitting and certification described in Subsection (a) of
9 this section shall be unlawful.

10 Sec. 231.208. AMENDMENTS. (a) The zoning district map and
11 the zoning regulations may be amended after adoption at the
12 discretion of the commissioners court.

13 (1) Amendments to the zoning district map shall be
14 made only if:

15 (A) the present district classification of the
16 land involved was made in error; or

17 (B) the circumstances of the immediate physical
18 or economic environment of the land involved have changed
19 substantially since the time of the designation of the zoning
20 district in which the land is located.

21 (2) Amendments shall not be made for a specific
22 property that provide a monopolistic advantage over other nearby
23 properties having similar locational advantages or circumstances of
24 situation.

25 (3) Amendments may create new boundaries of existing

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1 districts but not create an isolated and dissimilar new district.

2 (b) Any landowner may petition or apply for an amendment to
3 the zoning district map involving only land or property owned by
4 such petitioner or applicant. The right to petition or apply for
5 an amendment to a zoning district classification of property does
6 not infer or include a right to a public hearing on the matter. A
7 public hearing is required and necessary only on the effecting of
8 an amendment. The commissioners court may provide for a
9 preliminary review and discussion of applications for amendments to
10 the zoning district map and determine whether or not an application
11 or petition merits further consideration. If the commissioners
12 court determines that a petition or application warrants no further
13 consideration, the matter is closed to further action. The
14 individual thus aggrieved may appeal the matter in a court of
15 competent jurisdiction. If the commissioners court makes a
16 determination that the proposed amendment warrants further
17 consideration and may possibly have merit, the court shall order a
18 public hearing on the petition or application.

19 (c) Prior to effecting any amendment, there shall be a
20 public hearing on the proposal to amend before the commissioners
21 court. Public notice of the public hearing must be published in a
22 newspaper of general circulation in the county not less than 15
23 days prior to the date of the public hearing. No action to amend
24 or not to amend shall take place at the public hearing. There
25 shall be a waiting period of not less than one week between the

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1 date of the public hearing and the date that the commissioners
2 court acts to amend or not to amend.

3 (d) In the event of a proposed change in the district
4 classification of a property or properties as an amendment to the
5 zoning district map, the owners of all land included in the
6 proposed amendment and located within 500 feet of the property for
7 which an amendment is to be considered shall be notified of the
8 proposed change by United States mail, certified, return receipt
9 requested. The notices shall be posted not less than 15 days prior
10 to the date of the public hearing. In the event that the owners of
11 20 percent or more of the area of the land within 500 feet of the
12 property for which an amendment of the zoning district
13 classification is being proposed, or any one or all of the owners
14 of the land being considered for a change in zoning district
15 classification, file written objections to the proposed amendment
16 or change of the district classification, such change and amendment
17 to the zoning district map can only be effected by an affirmative
18 vote of not less than three-fourths of the members of the
19 commissioners court. Written protests must be presented at the
20 public hearing and signed by the owners of the affected properties.

21 (e) Amendments to the zoning regulations shall be initiated
22 only by the commissioners court. Any action to amend shall be
23 taken at a regular meeting of the court, the agenda item for which
24 shall be a public hearing on the proposed amendment. A public
25 notice regarding the proposed amendment must be published in a

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1 newspaper of general circulation in the county not less than 15
2 days prior to the date of the public hearing.

3 Sec. 231.209. VARIANCES. (a) The commissioners court may
4 grant, on the basis of a demonstrated hardship, variances as apply
5 to dimensional requirements of the zoning regulations, but only if
6 the applicant for the variance has not caused the hardship. The
7 land use regulations shall not be subject to the granting of a
8 variance or exception. Changes in permitted uses of land or
9 buildings shall only be effected by an amendment to the zoning
10 district map.

11 Sec. 231.210. REPEAL; REPLACEMENT. (a) The commissioners
12 court may repeal both the zoning regulations and the zoning
13 district map and take no further action to replace them thus
14 effecting the termination of any form of zoning in the county.
15 Such action may only be taken at a regular meeting of the
16 commissioners court which is a public hearing on the proposed
17 action. Prior to the public hearing there shall be not less than
18 two public notices of the public hearing and the proposal published
19 in a newspaper of general circulation in the county. The first
20 notice must be published not less than 15 days prior to the date of
21 the public hearing, and the second notice must be published between
22 three and seven days prior to the date of the public hearing.

23 (b) The commissioners court may repeal either the zoning
24 regulations or the zoning district map or both, following the
25 procedure set forth in Subsection (a) and then replace either or

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1 both with new or completely revised documents. In this event, the
2 procedures prescribed by Sections 231.204, 231.205, and 231.206
3 shall be followed.

4 Sec. 231.211. RECORD KEEPING. The zoning district map shall
5 be maintained up to date in the offices of the county clerk. A
6 zoning record book shall be maintained in the same office, and the
7 record book shall contain a chronological record of all amendments
8 made to the district map, all variances and special permits issued
9 by the commissioners court, and a record of all applications or
10 petitions made for amendments to the district map and the
11 disposition of the applications or petitions.

12 Sec. 231.212. ENFORCEMENT; PENALTY; REMEDIES. (a) The
13 commissioners court may adopt orders to enforce this subchapter, an
14 order adopted under this subchapter, or a zoning regulation.

15 (b) A person commits an offense if the person violates an
16 order adopted under this subchapter or a zoning regulation. An
17 offense under this subchapter is a misdemeanor punishable by a fine
18 of not less than \$500 nor more than \$1,000. Each day that a
19 violation occurs or continues constitutes a separate offense.
20 Trial shall be in district court.

21 (c) If a building or other structure is erected,
22 constructed, reconstructed, altered, repaired, converted, or
23 maintained or if a building, other structure, or land is used in
24 violation of an order adopted under this subchapter or a zoning
25 regulation, the appropriate county authority, in addition to other

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1 remedies, may institute appropriate action to:

2 (1) prevent the unlawful action or use;

3 (2) restrain, correct, or abate the violation;

4 (3) prevent the occupancy of the building, other
5 structure, or land; or

6 (4) prevent any illegal act, conduct, business, or use
7 on or about the premises.

8 Sec. 231.213. CONFLICT WITH OTHER LAWS. If a zoning
9 regulation adopted under this subchapter requires a greater width
10 or size of a lot, yard, court, or other open space, requires a
11 lower building height or fewer number of stories for building,
12 requires a greater percentage of a lot to be left unoccupied, or
13 otherwise imposes higher standards than those required under
14 another statute or regulation of a state agency or local order or
15 regulation, the regulation adopted under this subchapter controls.
16 If the other statute, state regulation, or local order or
17 regulation imposes higher standards, that statute, regulation, or
18 order controls.

19 Sec. 231.214. EXCEPTIONS. (a) This subchapter does not
20 authorize the commissioners court to require the removal or
21 destruction of a building or the discontinuation of the use of a
22 building that exists at the time the court implements this
23 subchapter if such use or building does not conform to the
24 regulations of the zoning district in which the property is then
25 located.

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1 (b) The storage, placement, or parking of scrap, used, or
2 junk vehicles, machinery, or other types of material or items that
3 are not within an enclosed structure or building, including
4 semi-sheltered flea-market-type activities, that by reason of the
5 implementation of this subchapter become nonconforming with the
6 regulations of the zoning district in which then located may be
7 required by the commissioners court to be removed, the property
8 cleared, and the act or activity terminated within two years of the
9 date of service to the owner and/or occupant of a notice to this
10 effect as ordered by the commissioners court.

11 (c) This subchapter does not authorize the commissioners
12 court to regulate or restrict the right of a landowner, a person
13 acting in the landowner's behalf, or a tenant or lessee of land to
14 construct improvements for agriculture and ranching operations or
15 to otherwise use the land for agriculture or ranching, including
16 range and wildlife management. Commercial feed lots, commercial
17 livestock loading and receiving facilities, commercial livestock
18 and produce processing facilities, commercial disposal of solid or
19 liquid waste material of any type, and the commercial quarrying or
20 extraction of sand, gravel, caliche, or stone shall not be
21 considered agricultural or ranching operations and may be regulated
22 by the commissioners court as necessary to protect the public
23 health, safety, peace, morals, and general welfare from the dangers
24 of explosion, flooding, vermin, insects, physical injury,
25 contagious disease, contamination of water supplies, radiation,

1 storage of toxic materials, or other hazards.

2 (d) This subchapter, an order adopted under this subchapter,
3 or a zoning regulation does not apply to the location,
4 construction, maintenance, or use of any buildings, structures, or
5 equipment used in providing telephone service to the public.

6 SECTION 2. The importance of this legislation and the
7 crowded condition of the calendars in both houses create an
8 emergency and an imperative public necessity that the
9 constitutional rule requiring bills to be read on three several
10 days in each house be suspended, and this rule is hereby suspended,
11 and that this Act take effect and be in force from and after its
12 passage, and it is so enacted.

By: Zaffirini S.B. No. 1411
(In the Senate - Filed April 22, 1993; April 26, 1993, read first time and referred to Committee on Intergovernmental Relations; May 12, 1993, reported adversely, with favorable Committee Substitute by the following vote: Yeas 9, Nays 0; May 12, 1993, sent to printer.)

COMMITTEE VOTE

| | Yea | Nay | PNV | Absent |
|------------|-----|-----|-----|--------|
| Armbrister | x | | | |
| Leedom | x | | | |
| Carriker | x | | | |
| Henderson | | | | x |
| Madla | x | | | |
| Moncrief | x | | | |
| Patterson | x | | | |
| Rosson | x | | | |
| Shapiro | | | | x |
| Wentworth | x | | | |
| Whitmire | x | | | |

COMMITTEE SUBSTITUTE FOR S.B. No. 1411

By: Moncrief

A BILL TO BE ENTITLED
AN ACT

relating to zoning around certain sites in Kinney County; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ZONING AROUND CERTAIN SITES IN KINNEY COUNTY

Sec. 231.201. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas and sites and the adjoining and associated lands and environment of Fort Clark, Alamo Village, Kickapoo State Park, and the Seminole Indian Cemetery are or will be frequented for recreational purposes by residents from every part of the state;

(2) orderly and compatible development and use of these areas is of concern to the entire state;

(3) the protection of the scenic character of the area so as to be of continuing value to the moviemaking industry is of concern to the entire state; and

(4) buildings in the area, existing and future, that will be frequented for resort, tourism, or recreational purposes will tend to become congested and to be used in ways that interfere with and that are incompatible with the proper use of the area as a place of recreation, tourism, or visitation to the detriment of the public health, safety, morals, and general welfare.

(b) The powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging recreation.

Sec. 231.202. AREAS SUBJECT TO REGULATION. (a) This subchapter applies to:

(1) those unincorporated parts of Kinney County located within 12 miles of the Seminole Indian Cemetery;

(2) those unincorporated parts of Kinney County located within 12 miles of Fort Clark Springs;

(3) those unincorporated parts of Kinney County located within 12 miles of Kickapoo State Park; and

(4) those unincorporated parts of Kinney County located within 12 miles of Alamo Village.

(b) This subchapter does not apply to:

(1) that area known as the Seminole Indian Cemetery and described in Abstract 1, Dolores Soto Beales, Kinney County, Texas;

(2) those lands known as Fort Clark Springs, being, more or less, 2,677.91 acres out of Abstract 491, Survey 234, S. A.

1 Maverick, Kinney County, Texas;

2 (3) those lands known as Alamo Village, being, more or
 3 less, 26.13 acres out of Abstract 615, Survey 423, Bexar County
 4 School Land, Kinney County, Texas; and

5 (4) the following described lands known as Kickapoo
 6 State Park, the deed to which is recorded in Volume A-80, pages
 7 860-864, Deed Records in Kinney County, Texas: 6,399.36 acres of
 8 land, more or less, known as the "A.J. Seargeant Ranch" situated in
 9 Kinney and Edwards Counties, Texas, more particularly described as
 10 twelve (12) tracts as follows:

11 FIRST TRACT: All of Survey 42, G.C. & S.F. Ry. Co.,
 12 Certificate 2379, Block M., containing 640 acres, more or less, and
 13 lying in Kinney County, Texas;

14 SECOND TRACT: 560.4 acres, more or less, out of Survey No.
 15 49, G.W.T. & P. Ry. Co., Block No. 1, Certificate 1/108, said 560.4
 16 acres of Survey No. 49, herein conveyed being described by metes
 17 and bounds as follows:

18 BEGINNING at the South West corner of Survey No. 49;
 19 THENCE North 70 East 1900 varas to its South East corner;
 20 THENCE North 19° 7' West 1900 varas to its North East corner;
 21 THENCE South 70 West 1167 varas to a fence;
 22 THENCE with said fence South 22 East 315 varas;
 23 THENCE South 10 West 160 varas;
 24 THENCE South 16 West 166 varas;
 25 THENCE South 32 1/2 West 147 varas;
 26 THENCE South 72 West 446 varas to the West line of Survey 49;
 27 THENCE South 19° 7' East 1234 varas to the PLACE OF
 28 BEGINNING, said Survey lying partly in Edwards and partly in Kinney
 29 County, Texas;

30 THIRD TRACT: All of Survey No. 50, G.W.T. & P. Ry. Co.,
 31 Certificate 1/108, Block 1, containing 640 acres of land, more or
 32 less, lying in Edwards and Kinney Counties, Texas;

33 FOURTH TRACT: 609 acres, more or less, out of Survey No. 51,
 34 G.W.T. & P. Ry. Co., Block 1, Certificate 1/109, the 609 acres out
 35 of said Survey herein conveyed being described as follows:

36 BEGINNING at the South East corner of Survey No. 51;
 37 THENCE South 70 West 1900 varas to its South West corner;
 38 THENCE North 19° 7' West 1900 varas to its North West corner;
 39 THENCE North 70 East 1082 varas to a fence;
 40 THENCE with said fence South 83 East 920 varas to the East
 41 line of 51;
 42 THENCE South 19° 7' East 1474 varas to the PLACE OF
 43 BEGINNING; said survey situated in Edwards and Kinney County,
 44 Texas;

45 FIFTH TRACT: 191 acres out of South West part of Survey No.
 46 52, G.W.T. & P. Ry. Co., Block 1, Certificate 1/109, that portion
 47 of said Survey 52 hereby conveyed being described as follows:

48 BEGINNING at the South West Corner of Survey No. 52 for the
 49 South West corner of this tract;
 50 THENCE North 70 East 547 varas to the
 51 Rocksprings-Brackettville Road;
 52 THENCE with said Road North 4 East 160 varas;
 53 THENCE North 21 East 498 varas;
 54 THENCE North 2 East 418 varas to fence corner;
 55 THENCE with fence North 83 West 1230 varas to the West line
 56 of Survey 52;

57 THENCE with said West line South 19° 7' East 1474 varas to
 58 the PLACE OF BEGINNING, containing 191 acres of land, more or less,
 59 situated in Edwards County, Texas;

60 SIXTH TRACT: 69.7 acres, more or less, out of West part of
 61 Survey No. 69, G.W.T. & P. Ry. Co., Block 1, Certificate 1/118,
 62 that portion of said Survey 69 hereby conveyed being all that part
 63 of said survey lying West of the Brackettville-Rocksprings Public
 64 Road, and being all that part of said Survey not heretofore
 65 conveyed by J. G. Blackman to W. P. Covington, said portion of 69
 66 partly in Edwards and partly in Kinney County, Texas;

67 SEVENTH TRACT: All of Survey No. 70, G.W.T. & P. Ry. Co.,
 68 Block 1, Certificate 1/118, consisting of 640 acres, more or less,
 69 said Survey 70 partly in Kinney and in Edwards Counties, Texas;

70 EIGHTH TRACT: All of Survey No. 71, G.W.T. & P. Ry. Co.,

Block 1, Certificate 1/119, containing 640 acres, more or less, lying wholly in Kinney County, Texas;

NINTH TRACT: All of Survey No. 72, G.W.T. & P. Ry. Co., Block 1, Certificate 1/119, containing 640 acres of land, more or less, lying and being wholly in Kinney County, Texas;

TENTH TRACT: All of Survey No. 73, G.W.T. & P. Ry. Co., Block 1, Certificate 1/120, containing 640 acres of land, more or less, lying wholly in Kinney County, Texas;

ELEVENTH TRACT: All of Survey No. 74, G.W.T. & P. Ry. Co., Block 1, Certificate 1/120, containing 694.7 acres, more or less, lying in Kinney County, Texas;

TWELFTH TRACT: 443 acres, more or less, out of Survey No. 75, G.W.T. & P. Ry. Co., Block 1, Certificate 1/121, the 443 acres of said Survey 75 herein conveyed being all that portion of said Survey lying West of Brackettville-Rocksprings Public Road and being all that part of said Survey not heretofore conveyed by J. G. Blackman to W. P. Covington.

SAVE AND EXCEPT 1.98 acres of Survey 75 hereinabove described; 0.69 acres of Survey 70 hereinabove described; and 0.65 acres of Survey 69 hereinabove described conveyed to the State of Texas by A. J. Seargeant by right-of-way Deed recorded in Vol. A-37, Page 240 of the Deed Records of Kinney County, Texas.

SAVE AND EXCEPT 3.41 acres of Survey 52 hereinabove described and 1.71 acres of Survey 69 hereinabove described conveyed to the State of Texas by Laura Seargeant by right-of-way Deed recorded in Vol. Z, Page 388 of the Deed Records of Edwards County, Texas.

The above twelve tracts of land being the same land conveyed to Albert J. Seargeant by J. G. Blackman, by Deed dated November 1, 1923, and recorded in Vol. 24, Page 192, Deed Records of Edwards County, Texas, and recorded in Vol. A-20, Page 414, Deed Records of Kinney County, Texas, to which said Deed and the respective records thereof, above stated, each respectively, reference is here made for all purposes.

Sec. 231.203. EXTENT OF REGULATIONS; DISTRICTS. (a) The commissioners court order providing for the zoning of a portion of Kinney County shall consist of a zoning district map and zoning regulations.

(b) The Commissioners Court of Kinney County, within that portion of the county subject to zoning as provided in this subchapter, may regulate the following:

(1) the location and use of buildings, other structures, and land for ranching or agricultural, residential, business, commercial, industrial, or other purposes;

(2) the height, number of stories, and size of buildings and other structures;

(3) the density of population expressed in dwelling units per acre;

(4) the required quantity of off-street parking;

(5) the maximum coverage of land with impervious structures or materials;

(6) the percentage of the area of a lot that may be occupied by structures;

(7) the intensity of development expressed as spacing and size of lots and structures, required open space, size of yards and courts, and type and size of activity related to traffic generation;

(8) the placement of water pumping, storage, and treatment facilities other than for ranching or agricultural purposes; and

(9) the placement of treatment and disposal facilities of wastewater and solid waste materials.

(c) The commissioners court may divide the area in the county that is subject to this subchapter into zoning districts of a number, shape, size, and type or classification that the court considers best for carrying out or implementing this subchapter. Within each zoning district, the commissioners court may regulate the placement, size, height, and use of buildings and other structures and the use of land. The zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district.

(d) The zoning regulations and the zoning district map shall be adopted with reasonable consideration, among other things, for the character of the land assigned to each district and its suitability for particular uses, with a view of achieving the optimum arrangement of the uses of land and distribution of population and conserving the value of buildings, quality of the environment, and quality of the recreational, historical, scenic, and tourist sites, buildings, and facilities throughout the area.

Sec. 231.204. COUNTY ZONING COMMITTEE. (a) The county zoning committee is an ad hoc committee consisting of five persons who are residents of Kinney County.

(b) The committee is responsible for the preparation of the comprehensive plan and related policy statements and the proposed zoning district map and the zoning regulations.

(c) The members of the county zoning committee shall be appointed by the commissioners court, the method of appointment to be determined by the court. One of the five members of the committee shall be a member of the commissioners court who shall serve ex officio and shall be the chair of the zoning committee. The committee may elect a vice-chair from the membership.

(d) Minutes of all meetings of the zoning committee shall be recorded and maintained as permanent records of the county. For this purpose, a recording secretary shall be provided to the committee by the county. Notices of meeting of the county zoning committee shall be given to the members of the commissioners court.

(e) On the resignation of a member or termination of membership for any reason, the commissioners court shall, within 30 days following the resignation or termination, appoint a replacement member.

(f) If the commissioners court finds evidence that the zoning committee has failed to make reasonable progress after a start-up period of 90 days or finds at any time that the members are unable to cooperate with one another or are incapable of producing the desired plan and documents, the commissioners court by an affirmative vote of at least four members may terminate and discharge the zoning committee. In that event, the commissioners court shall appoint new members as prescribed for the original appointments.

(g) The commissioners court may appropriate funds for the costs necessary to the functions and responsibilities of the county zoning committee and may employ such staff and consultants as are determined necessary to assist in accomplishing the duties and responsibilities of the committee.

(h) When the commissioners court adopts and approves a county zoning district map and zoning regulations, the county zoning committee has completed its duties and responsibilities and ceases to exist.

Sec. 231.205. COMPLIANCE WITH COMPREHENSIVE PLAN.

(a) Prior to the preparation and adoption of the zoning district map and zoning regulations, the commissioners court shall adopt a comprehensive plan for the zoned area of the county.

(b) The comprehensive plan shall consist of, at a minimum, the following elements:

- (1) land use;
- (2) population distribution and density;
- (3) flood plain management including constraints on land coverage by impervious structures related to accelerated run-off and potential flooding;
- (4) major streets and thoroughfares; and
- (5) protection and enhancement of sites and facilities of importance to tourism, recreation, and historic preservation.

(c) Both the comprehensive plan and the zoning regulations must be designed to:

- (1) promote the public health, safety, and general welfare;
- (2) prevent overcrowding of land;
- (3) avoid undue concentration of population;
- (4) provide adequate light and air;
- (5) lessen congestion in the streets and roads;
- (6) facilitate adequate provision of transportation,

1 water, sewers, parks, and other public requirements;

2 (7) preserve and enhance the quality of tourist
3 attractions, parks, and historical sites and structures by
4 preventing the use of land and buildings that may be incompatible
5 with and detrimental to such facilities, buildings, and sites for
6 the continued enjoyment of the people of the state; and

7 (8) assist in developing and making available to the
8 public such areas, sites, parks, and playgrounds as will enrich the
9 quality of tourism and recreation for the residents of this state
10 and other states and nations.

11 (d) The commissioners court shall act to adopt the
12 comprehensive plan after a public hearing on the plan. Notice of
13 the hearing must be published in a newspaper of general circulation
14 in the county not less than 15 days prior to the date of the
15 hearing.

16 Sec. 231.206. PREPARATION, APPROVAL, AND ADOPTION OF THE
17 ZONING DISTRICT MAP AND ZONING REGULATIONS. (a) Following
18 approval and adoption of the comprehensive plan, the zoning
19 committee shall proceed to prepare the proposed zoning district map
20 and zoning regulations. The proposed zoning district map and the
21 zoning regulations shall be prepared based on and consistent with
22 the adopted comprehensive plan.

23 (b) When the proposed zoning district map and zoning
24 regulations are completed, the zoning committee shall hold one or
25 more public hearings on the map and regulations, as determined
26 appropriate. Notice of the hearing must be published in a
27 newspaper of general circulation in the county not less than 15
28 days prior to the date of the hearing.

29 (c) When the county zoning committee is satisfied with the
30 proposed zoning district map and zoning regulations, it shall
31 approve the map and regulations and recommend to the commissioners
32 court that they be adopted. The commissioners court shall give not
33 less than 15 days prior public notice by publication in a newspaper
34 of general circulation in the county of a public hearing to be held
35 jointly with the zoning committee for the purpose of considering
36 adoption of the zoning district map and zoning regulations. No
37 action to adopt shall be taken at the public hearing. Following
38 the public hearing, the zoning committee may respond to questions
39 or desired changes in the map or regulations requested by the
40 commissioners court. The commissioners court may then set a date
41 for action to adopt the zoning district map and zoning regulations.
42 No further public hearings are required but may be held at the
43 discretion of the commissioners court.

44 Sec. 231.207. PERMITS, CERTIFICATES, FEES.
45 (a) Administration of zoning regulations shall include an
46 examination of an applicant's proposed use of land and buildings;
47 if the proposed use is found to be in compliance with the zoning
48 regulations and zoning district map, the county shall issue a
49 permit to use or construct. When the use or construction is
50 completed and in place, the applicant shall request an inspection.
51 On inspection by an official of the county and a finding that the
52 use or construction complies with the terms of the permit issued,
53 the county shall issue a certificate of compliance and occupancy to
54 the applicant. The county may charge an application fee not to
55 exceed \$100.

56 (b) Any use of premises or construction or use of a
57 building, other than for ranching and agricultural purposes, that
58 is located within the zoned portion of the county that occurs
59 subsequent to the adoption by the county of the zoning district map
60 and zoning regulations which does not comply with this procedure
61 for permitting and certification described in Subsection (a) of
62 this section shall be unlawful.

63 Sec. 231.208. AMENDMENTS. (a)(1) The zoning district map
64 and the zoning regulations may be amended after adoption at the
65 discretion of the commissioners court.

66 (2) Amendments to the zoning district map shall be
67 made only if:

68 (A) the present district classification of the
69 land involved was made in error; or

70 (B) the circumstances of the immediate physical

1 or economic environment of the land involved have changed
2 substantially since the time of the designation of the zoning
3 district in which the land is located.

4 (3) Amendments shall not be made for a specific
5 property that provide a monopolistic advantage over other nearby
6 properties having similar locational advantages or circumstances of
7 situation.

8 (4) Amendments may create new boundaries of existing
9 districts but not create an isolated and dissimilar new district.

10 (b) Any landowner may petition or apply for an amendment to
11 the zoning district map involving only land or property owned by
12 such petitioner or applicant. The right to petition or apply for
13 an amendment to a zoning district classification of property does
14 not infer or include a right to a public hearing on the matter. A
15 public hearing is required and necessary only on the effecting of
16 an amendment. The commissioners court may provide for a
17 preliminary review and discussion of applications for amendments to
18 the zoning district map and determine whether or not an application
19 or petition merits further consideration. If the commissioners
20 court determines that a petition or application warrants no further
21 consideration, the matter is closed to further action. The
22 individual thus aggrieved may appeal the matter in a court of
23 competent jurisdiction. If the commissioners court makes a
24 determination that the proposed amendment warrants further
25 consideration and may possibly have merit, the court shall order a
26 public hearing on the petition or application.

27 (c) Prior to effecting any amendment, there shall be a
28 public hearing on the proposal to amend before the commissioners
29 court. Public notice of the public hearing must be published in a
30 newspaper of general circulation in the county not less than 15
31 days prior to the date of the public hearing. No action to amend
32 or not to amend shall take place at the public hearing. There
33 shall be a waiting period of not less than one week between the
34 date of the public hearing and the date that the commissioners
35 court acts to amend or not to amend.

36 (d) In the event of a proposed change in the district
37 classification of a property or properties as an amendment to the
38 zoning district map, the owners of all land included in the
39 proposed amendment and located within 500 feet of the property for
40 which an amendment is to be considered shall be notified of the
41 proposed change by United States mail, certified, return receipt
42 requested. The notices shall be posted not less than 15 days prior
43 to the date of the public hearing. In the event that the owners of
44 20 percent or more of the area of the land within 500 feet of the
45 property for which an amendment of the zoning district
46 classification is being proposed, or any one or all of the owners
47 of the land being considered for a change in zoning district
48 classification, file written objections to the proposed amendment
49 or change of the district classification, such change and amendment
50 to the zoning district map can only be effected by an affirmative
51 vote of not less than three-fourths of the members of the
52 commissioners court. Written protests must be presented at the
53 public hearing and signed by the owners of the affected properties.

54 (e) Amendments to the zoning regulations shall be initiated
55 only by the commissioners court. Any action to amend shall be
56 taken at a regular meeting of the court, the agenda item for which
57 shall be a public hearing on the proposed amendment. A public
58 notice regarding the proposed amendment must be published in a
59 newspaper of general circulation in the county not less than 15
60 days prior to the date of the public hearing.

61 Sec. 231.209. VARIANCES. The commissioners court may grant,
62 on the basis of a demonstrated hardship, variances as apply to
63 dimensional requirements of the zoning regulations, but only if the
64 applicant for the variance has not caused the hardship. The land
65 use regulations shall not be subject to the granting of a variance
66 or exception. Changes in permitted uses of land or buildings shall
67 only be effected by an amendment to the zoning district map.

68 Sec. 231.210. REPEAL; REPLACEMENT. (a) The commissioners
69 court may repeal both the zoning regulations and the zoning
70 district map and take no further action to replace them, thus

1 effecting the termination of any form of zoning in the county.
 2 Such action may only be taken at a regular meeting of the
 3 commissioners court which is a public hearing on the proposed
 4 action. Prior to the public hearing there shall be not less than
 5 two public notices of the public hearing and the proposal published
 6 in a newspaper of general circulation in the county. The first
 7 notice must be published not less than 15 days prior to the date of
 8 the public hearing, and the second notice must be published between
 9 three and seven days prior to the date of the public hearing.

10 (b) The commissioners court may repeal either the zoning
 11 regulations or the zoning district map or both, following the
 12 procedure set forth in Subsection (a) and then replace either or
 13 both with new or completely revised documents. In this event, the
 14 procedures prescribed by Sections 231.204, 231.205, and 231.206
 15 shall be followed.

16 Sec. 231.211. RECORD KEEPING. The zoning district map shall
 17 be maintained up-to-date in the offices of the county clerk. A
 18 zoning record book shall be maintained in the same office, and the
 19 record book shall contain a chronological record of all amendments
 20 made to the district map, all variances and special permits issued
 21 by the commissioners court, and a record of all applications or
 22 petitions made for amendments to the district map and the
 23 disposition of the applications or petitions.

24 Sec. 231.212. ENFORCEMENT; PENALTY; REMEDIES. (a) The
 25 commissioners court may adopt orders to enforce this subchapter, an
 26 order adopted under this subchapter, or a zoning regulation.

27 (b) A person commits an offense if the person violates an
 28 order adopted under this subchapter or a zoning regulation. An
 29 offense under this subchapter is a misdemeanor punishable by a fine
 30 of not less than \$500 nor more than \$1,000. Each day that a
 31 violation occurs or continues constitutes a separate offense.
 32 Trial shall be in district court.

33 (c) If a building or other structure is erected,
 34 constructed, reconstructed, altered, repaired, converted, or
 35 maintained or if a building, other structure, or land is used in
 36 violation of an order adopted under this subchapter or a zoning
 37 regulation, the appropriate county authority, in addition to other
 38 remedies, may institute appropriate action to:

- 39 (1) prevent the unlawful action or use;
- 40 (2) restrain, correct, or abate the violation;
- 41 (3) prevent the occupancy of the building, other
 42 structure, or land; or
- 43 (4) prevent any illegal act, conduct, business, or use
 44 on or about the premises.

45 Sec. 231.213. CONFLICT WITH OTHER LAWS. If a zoning
 46 regulation adopted under this subchapter requires a greater width
 47 or size of a lot, yard, court, or other open space, requires a
 48 lower building height or a fewer number of stories for building,
 49 requires a greater percentage of a lot to be left unoccupied, or
 50 otherwise imposes higher standards than those required under
 51 another statute or regulation of a state agency or local order or
 52 regulation, the regulation adopted under this subchapter controls.
 53 If the other statute, state regulation, or local order or
 54 regulation imposes higher standards, that statute, regulation, or
 55 order controls.

56 Sec. 231.214. EXCEPTIONS. (a) This subchapter does not
 57 authorize the commissioners court to require the removal or
 58 destruction of a building or the discontinuation of the use of a
 59 building that exists at the time the court implements this
 60 subchapter if such use or building does not conform to the
 61 regulations of the zoning district in which the property is then
 62 located.

63 (b) The storage, placement, or parking of scrap, used, or
 64 junk vehicles, machinery, or other types of material or items that
 65 are not within an enclosed structure or building, including
 66 semi-sheltered flea-market-type activities, that by reason of the
 67 implementation of this subchapter become nonconforming with the
 68 regulations of the zoning district in which then located may be
 69 required by the commissioners court to be removed, the property
 70 cleared, and the act or activity terminated within two years of the

1 date of service to the owner and/or occupant of a notice to this
2 effect as ordered by the commissioners court.

3 (c) This subchapter does not authorize the commissioners
4 court to regulate or restrict the right of a landowner, a person
5 acting in the landowner's behalf, or a tenant or lessee of land to
6 construct improvements for agriculture and ranching operations or
7 to otherwise use the land for agriculture or ranching, including
8 range and wildlife management. Commercial feed lots, commercial
9 livestock loading and receiving facilities, commercial livestock
10 and produce processing facilities, commercial disposal of solid or
11 liquid waste material of any type, and the commercial quarrying or
12 extraction of sand, gravel, caliche, or stone shall not be
13 considered agricultural or ranching operations and may be regulated
14 by the commissioners court as necessary to protect the public
15 health, safety, peace, morals, and general welfare from the dangers
16 of explosion, flooding, vermin, insects, physical injury,
17 contagious disease, contamination of water supplies, radiation,
18 storage of toxic materials, or other hazards.

19 (d) This subchapter, an order adopted under this subchapter,
20 or a zoning regulation does not apply to the location,
21 construction, maintenance, or use of any buildings, structures, or
22 equipment used in providing telephone service to the public.

23 SECTION 2. The importance of this legislation and the
24 crowded condition of the calendars in both houses create an
25 emergency and an imperative public necessity that the
26 constitutional rule requiring bills to be read on three several
27 days in each house be suspended, and this rule is hereby suspended,
28 and that this Act take effect and be in force from and after its
29 passage, and it is so enacted.

30 * * * * *

31 Austin, Texas
32 May 12, 1993

33 Hon. Bob Bullock
34 President of the Senate

35 Sir:

36 We, your Committee on Intergovernmental Relations to which was
37 referred S.B. No. 1411, have had the same under consideration, and
38 I am instructed to report it back to the Senate with the
39 recommendation that it do not pass, but that the Committee
40 Substitute adopted in lieu thereof do pass and be printed.

41 Armbrister, Chairman

42 * * * * *

43 WITNESSES

44 FOR AGAINST ON

45
46 Name: Tim Ward (Judge) x
47 Representing: Kinney County
48 City: Brackettville
49 -----

**FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON**

(SB) SCR SJR SR HB HCR HJR 1411
By Zaffirini
(Author/Senate Sponsor)
May 12, 1993
(date)

We, your Committee on INTERGOVERNMENTAL RELATIONS, to which was referred the attached measure, have on May 12, 1993, had the same under consideration and I am instructed to report it back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☒ the caption remained the same as original measure
☐ the caption changed with adoption of the substitute
- ☐ do pass as substituted, and be ordered not printed
- ☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☒ no

Considered by subcommittee. ☐ yes ☒ no

The measure was reported from Committee by the following vote:

| | YEA | NAY | ABSENT | PNV |
|--------------------|-----|-----|--------|-----|
| Armbrister, Chair | ✓ | | | |
| Leedom, Vice-Chair | ✓ | | | |
| Carriker | ✓ | | | |
| Henderson | | | ✓ | |
| Madla | ✓ | | | |
| Moncrief | ✓ | | | |
| Patterson | ✓ | | | |
| Rosson | ✓ | | | |
| Shapiro | | | ✓ | |
| Wentworth | ✓ | | | |
| Whitmire | ✓ | | | |
| TOTAL VOTES | 9 | 0 | 2 | 0 |

COMMITTEE ACTION

S260 Considered in public hearing
S270 Testimony taken

Maryann Randall
COMMITTEE CLERK

Ken Armbrister
CHAIRMAN

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
73rd Regular Session

April 27, 1993

TO: Honorable Ken Armbrister, Chair
Committee on Intergovernmental Relations
Senate Chamber
Austin, Texas

IN RE: Senate Bill No. 1411
By: Zaffirini

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 1411 (relating to zoning around certain sites in Kinney County; providing penalties) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, EC

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

Hon. Bill Haley, Chairman
Administration Committee

Sir:

Notice is hereby given that SB 1411, by: Zaffirini,
(Bill No.) (author)
was heard by the Committee on IGR on MAY 12 19 93,
and reported out with the recommendation that it be placed on the Local Uncontested Bills Calendar.

Clerk of the reporting committee

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A PRINTED COPY OF THE BILL OR RESOLUTION, WHICH ALONG WITH 14 ADDITIONAL COPIES OF THE BILL OR RESOLUTION SHOULD BE DELIVERED TO ROOM 419. DEADLINE FOR SUBMITTING BILLS FOR THE LOCAL CALENDAR IS 5:00 P.M. FRIDAY.

Paper clip the original to the bill; retain one copy for reporting committee files; deliver one copy to the bill sponsor.

By: Zaffirini

S.B. No. 1411

Substitute the following for S.B. No. 1411:

By: *[Signature]*

C.S.S.B. No. 1411

A BILL TO BE ENTITLED

AN ACT

relating to zoning around certain sites in Kinney County; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 231, Local Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ZONING AROUND CERTAIN SITES IN KINNEY COUNTY

Sec. 231.201. LEGISLATIVE FINDINGS; PURPOSE. (a) The legislature finds that:

(1) the areas and sites and the adjoining and associated lands and environment of Fort Clark, Alamo Village, Kickapoo State Park, and the Seminole Indian Cemetery are or will be frequented for recreational purposes by residents from every part of the state;

(2) orderly and compatible development and use of these areas is of concern to the entire state;

(3) the protection of the scenic character of the area so as to be of continuing value to the moviemaking industry is of concern to the entire state; and

(4) buildings in the area, existing and future, that will be frequented for resort, tourism, or recreational purposes will tend to become congested and to be used in ways that interfere with and that are incompatible with the proper use of the area as a

1 place of recreation, tourism, or visitation to the detriment of the 2
2 public health, safety, morals, and general welfare.

3 (b) The powers granted under this subchapter are for the
4 purpose of promoting the public health, safety, peace, morals, and
5 general welfare and encouraging recreation.

6 Sec. 231.202. AREAS SUBJECT TO REGULATION. (a) This
7 subchapter applies to:

8 (1) those unincorporated parts of Kinney County
9 located within 12 miles of the Seminole Indian Cemetery;

10 (2) those unincorporated parts of Kinney County
11 located within 12 miles of Fort Clark Springs;

12 (3) those unincorporated parts of Kinney County
13 located within 12 miles of Kickapoo State Park; and

14 (4) those unincorporated parts of Kinney County
15 located within 12 miles of Alamo Village.

16 (b) This subchapter does not apply to:

17 (1) that area known as the Seminole Indian Cemetery
18 and described in Abstract 1, Dolores Soto Beales, Kinney County,
19 Texas;

20 (2) those lands known as Fort Clark Springs, being,
21 more or less, 2,677.91 acres out of Abstract 491, Survey 234, S. A.
22 Maverick, Kinney County, Texas;

23 (3) those lands known as Alamo Village, being, more or
24 less, 26.13 acres out of Abstract 615, Survey 423, Bexar County
25 School Land, Kinney County, Texas; and

1 (4) the following described lands known as Kickapoo
2 State Park, the deed to which is recorded in Volume A-80, pages
3 860-864, Deed Records in Kinney County, Texas: 6,399.36 acres of
4 land, more or less, known as the "A.J. Seargeant Ranch" situated in
5 Kinney and Edwards Counties, Texas, more particularly described as
6 twelve (12) tracts as follows:

7 FIRST TRACT: All of Survey 42, G.C. & S.F. Ry. Co.,
8 Certificate 2379, Block M., containing 640 acres, more or less, and
9 lying in Kinney County, Texas;

10 SECOND TRACT: 560.4 acres, more or less, out of Survey No.
11 49, G.W.T. & P. Ry. Co., Block No. 1, Certificate 1/108, said 560.4
12 acres of Survey No. 49, herein conveyed being described by metes
13 and bounds as follows:

14 BEGINNING at the South West corner of Survey No. 49;
15 THENCE North 70 East 1900 varas to its South East corner;
16 THENCE North 19° 7' West 1900 varas to its North East corner;
17 THENCE South 70 West 1167 varas to a fence;
18 THENCE with said fence South 22 East 315 varas;
19 THENCE South 10 West 160 varas;
20 THENCE South 16 West 166 varas;
21 THENCE South 32 1/2 West 147 varas;
22 THENCE South 72 West 446 varas to the West line of Survey 49;
23 THENCE South 19° 7' East 1234 varas to the PLACE OF
24 BEGINNING, said Survey lying partly in Edwards and partly in Kinney
25 County, Texas;

1 THIRD TRACT: All of Survey No. 50, G.W.T. & P. Ry. Co.,^{3/4}
2 Certificate 1/108, Block 1, containing 640 acres of land, more or
3 less, lying in Edwards and Kinney Counties, Texas;

4 FOURTH TRACT: 609 acres, more or less, out of Survey No. 51,
5 G.W.T. & P. Ry. Co., Block 1, Certificate 1/109, the 609 acres out
6 of said Survey herein conveyed being described as follows:

7 BEGINNING at the South East corner of Survey No. 51;
8 THENCE South 70 West 1900 varas to its South West corner;
9 THENCE North 19° 7' West 1900 varas to its North West corner;
10 THENCE North 70 East 1082 varas to a fence;
11 THENCE with said fence South 83 East 920 varas to the East
12 line of 51;

13 THENCE South 19° 7' East 1474 varas to the PLACE OF
14 BEGINNING; said survey situated in Edwards and Kinney County,
15 Texas;

16 FIFTH TRACT: 191 acres out of South West part of Survey No.
17 52, G.W.T. & P. Ry. Co., Block 1, Certificate 1/109, that portion
18 of said Survey 52 hereby conveyed being described as follows:

19 BEGINNING at the South West Corner of Survey No. 52 for the
20 South West corner of this tract;

21 THENCE North 70 East 547 varas to the
22 Rocksprings-Brackettville Road;

23 THENCE with said Road North 4 East 160 varas;

24 THENCE North 21 East 498 varas;

25 THENCE North 2 East 418 varas to fence corner;

1 THENCE with fence North 83 West 1230 varas to the West line ^{4/5}
2 of Survey 52;

3 THENCE with said West line South 19° 7' East 1474 varas to
4 the PLACE OF BEGINNING, containing 191 acres of land, more or less,
5 situated in Edwards County, Texas;

6 SIXTH TRACT: 69.7 acres, more or less, out of West part of
7 Survey No. 69, G.W.T. & P. Ry. Co., Block 1, Certificate 1/118,
8 that portion of said Survey 69 hereby conveyed being all that part
9 of said survey lying West of the Brackettville-Rocksprings Public
10 Road, and being all that part of said Survey not heretofore
11 conveyed by J. G. Blackman to W. P. Covington, said portion of 69
12 partly in Edwards and partly in Kinney County, Texas;

13 SEVENTH TRACT: All of Survey No. 70, G.W.T. & P. Ry. Co.,
14 Block 1, Certificate 1/118, consisting of 640 acres, more or less,
15 said Survey 70 partly in Kinney and in Edwards Counties, Texas;

16 EIGHTH TRACT: All of Survey No. 71, G.W.T. & P. Ry. Co.,
17 Block 1, Certificate 1/119, containing 640 acres, more or less,
18 lying wholly in Kinney County, Texas;

19 NINTH TRACT: All of Survey No. 72, G.W.T. & P. Ry. Co.,
20 Block 1, Certificate 1/119, containing 640 acres of land, more or
21 less, lying and being wholly in Kinney County, Texas;

22 TENTH TRACT: All of Survey No. 73, G.W.T. & P. Ry. Co.,
23 Block 1, Certificate 1/120, containing 640 acres of land, more or
24 less, lying wholly in Kinney County, Texas;

25 ELEVENTH TRACT: All of Survey No. 74, G.W.T. & P. Ry. Co.,

1 Block 1, Certificate 1/120, containing 694.7 acres, more or less,^{5/6}
2 lying in Kinney County, Texas;

3 TWELFTH TRACT: 443 acres, more or less, out of Survey No.
4 75, G.W.T. & P. Ry. Co., Block 1, Certificate 1/121, the 443 acres
5 of said Survey 75 herein conveyed being all that portion of said
6 Survey lying West of Brackettville-Rocksprings Public Road and
7 being all that part of said Survey not heretofore conveyed by J. G.
8 Blackman to W. P. Covington.

9 SAVE AND EXCEPT 1.98 acres of Survey 75 hereinabove
10 described; 0.69 acres of Survey 70 hereinabove described; and 0.65
11 acres of Survey 69 hereinabove described conveyed to the State of
12 Texas by A. J. Seargeant by right-of-way Deed recorded in Vol.
13 A-37, Page 240 of the Deed Records of Kinney County, Texas.

14 SAVE AND EXCEPT 3.41 acres of Survey 52 hereinabove described
15 and 1.71 acres of Survey 69 hereinabove described conveyed to the
16 State of Texas by Laura Seargeant by right-of-way Deed recorded in
17 Vol. 2, Page 388 of the Deed Records of Edwards County, Texas.

18 The above twelve tracts of land being the same land conveyed
19 to Albert J. Seargeant by J. G. Blackman, by Deed dated November 1,
20 1923, and recorded in Vol. 24, Page 192, Deed Records of Edwards
21 County, Texas, and recorded in Vol. A-20, Page 414, Deed Records of
22 Kinney County, Texas, to which said Deed and the respective records
23 thereof, above stated, each respectively, reference is here made
24 for all purposes.

25 Sec. 231.203. EXTENT OF REGULATIONS; DISTRICTS. (a) The

1 commissioners court order providing for the zoning of a portion of
2 Kinney County shall consist of a zoning district map and zoning
3 regulations.

4 (b) The Commissioners Court of Kinney County, within that
5 portion of the county subject to zoning as provided in this
6 subchapter, may regulate the following:

7 (1) the location and use of buildings, other
8 structures, and land for ranching or agricultural, residential,
9 business, commercial, industrial, or other purposes;

10 (2) the height, number of stories, and size of
11 buildings and other structures;

12 (3) the density of population expressed in dwelling
13 units per acre;

14 (4) the required quantity of off-street parking;

15 (5) the maximum coverage of land with impervious
16 structures or materials;

17 (6) the percentage of the area of a lot that may be
18 occupied by structures;

19 (7) the intensity of development expressed as spacing
20 and size of lots and structures, required open space, size of yards
21 and courts, and type and size of activity related to traffic
22 generation;

23 (8) the placement of water pumping, storage, and
24 treatment facilities other than for ranching or agricultural
25 purposes; and

1 (9) the placement of treatment and disposal facilities^{7/}
2 of wastewater and solid waste materials. (9)

3 (c) The commissioners court may divide the area in the
4 county that is subject to this subchapter into zoning districts of
5 a number, shape, size, and type or classification that the court
6 considers best for carrying out or implementing this subchapter.
7 Within each zoning district, the commissioners court may regulate
8 the placement, size, height, and use of buildings and other
9 structures and the use of land. The zoning regulations must be
10 uniform for each class or kind of building in a district, but the
11 regulations may vary from district to district.

12 (d) The zoning regulations and the zoning district map shall
13 be adopted with reasonable consideration, among other things, for
14 the character of the land assigned to each district and its
15 suitability for particular uses, with a view of achieving the
16 optimum arrangement of the uses of land and distribution of
17 population and conserving the value of buildings, quality of the
18 environment, and quality of the recreational, historical, scenic,
19 and tourist sites, buildings, and facilities throughout the area.

20 Sec. 231.204. COUNTY ZONING COMMITTEE. (a) The county
21 zoning committee is an ad hoc committee consisting of five persons
22 who are residents of Kinney County.

23 (b) The committee is responsible for the preparation of the
24 comprehensive plan and related policy statements and the proposed
25 zoning district map and the zoning regulations.

1 (c) The members of the county zoning committee shall be^g
2 appointed by the commissioners court, the method of appointment to
3 be determined by the court. One of the five members of the
4 committee shall be a member of the commissioners court who shall
5 serve ex officio and shall be the chair of the zoning committee.
6 The committee may elect a vice-chair from the membership.

7 (d) Minutes of all meetings of the zoning committee shall be
8 recorded and maintained as permanent records of the county. For
9 this purpose, a recording secretary shall be provided to the
10 committee by the county. Notices of meeting of the county zoning
11 committee shall be given to the members of the commissioners court.

12 (e) On the resignation of a member or termination of
13 membership for any reason, the commissioners court shall, within 30
14 days following the resignation or termination, appoint a
15 replacement member.

16 (f) If the commissioners court finds evidence that the
17 zoning committee has failed to make reasonable progress after a
18 start-up period of 90 days or finds at any time that the members
19 are unable to cooperate with one another or are incapable of
20 producing the desired plan and documents, the commissioners court
21 by an affirmative vote of at least four members may terminate and
22 discharge the zoning committee. In that event, the commissioners
23 court shall appoint new members as prescribed for the original
24 appointments.

25 (g) The commissioners court may appropriate funds for the

1 costs necessary to the functions and responsibilities of the county^{61/10}
2 zoning committee and may employ such staff and consultants as are
3 determined necessary to assist in accomplishing the duties and
4 responsibilities of the committee.

5 (h) When the commissioners court adopts and approves a
6 county zoning district map and zoning regulations, the county
7 zoning committee has completed its duties and responsibilities and
8 ceases to exist.

9 Sec. 231.205. COMPLIANCE WITH COMPREHENSIVE PLAN.

10 (a) Prior to the preparation and adoption of the zoning district
11 map and zoning regulations, the commissioners court shall adopt a
12 comprehensive plan for the zoned area of the county.

13 (b) The comprehensive plan shall consist of, at a minimum,
14 the following elements:

15 (1) land use;
16 (2) population distribution and density;
17 (3) flood plain management including constraints on
18 land coverage by impervious structures related to accelerated
19 run-off and potential flooding;

20 (4) major streets and thoroughfares; and
21 (5) protection and enhancement of sites and facilities
22 of importance to tourism, recreation, and historic preservation.

23 (c) Both the comprehensive plan and the zoning regulations
24 must be designed to:

25 (1) promote the public health, safety, and general

1 welfare;^{13/}₁₁

2 (2) prevent overcrowding of land;

3 (3) avoid undue concentration of population;

4 (4) provide adequate light and air;

5 (5) lessen congestion in the streets and roads;

6 (6) facilitate adequate provision of transportation,
7 water, sewers, parks, and other public requirements;

8 (7) preserve and enhance the quality of tourist
9 attractions, parks, and historical sites and structures by
10 preventing the use of land and buildings that may be incompatible
11 with and detrimental to such facilities, buildings, and sites for
12 the continued enjoyment of the people of the state; and

13 (8) assist in developing and making available to the
14 public such areas, sites, parks, and playgrounds as will enrich the
15 quality of tourism and recreation for the residents of this state
16 and other states and nations.

17 (d) The commissioners court shall act to adopt the
18 comprehensive plan after a public hearing on the plan. Notice of
19 the hearing must be published in a newspaper of general circulation
20 in the county not less than 15 days prior to the date of the
21 hearing.

22 Sec. 231.206. PREPARATION, APPROVAL, AND ADOPTION OF THE
23 ZONING DISTRICT MAP AND ZONING REGULATIONS. (a) Following
24 approval and adoption of the comprehensive plan, the zoning
25 committee shall proceed to prepare the proposed zoning district map

1 and zoning regulations. The proposed zoning district map and the^{11/12}
2 zoning regulations shall be prepared based on and consistent with
3 the adopted comprehensive plan.

4 (b) When the proposed zoning district map and zoning
5 regulations are completed, the zoning committee shall hold one or
6 more public hearings on the map and regulations, as determined
7 appropriate. Notice of the hearing must be published in a
8 newspaper of general circulation in the county not less than 15
9 days prior to the date of the hearing.

10 (c) When the county zoning committee is satisfied with the
11 proposed zoning district map and zoning regulations, it shall
12 approve the map and regulations and recommend to the commissioners
13 court that they be adopted. The commissioners court shall give not
14 less than 15 days prior public notice by publication in a newspaper
15 of general circulation in the county of a public hearing to be held
16 jointly with the zoning committee for the purpose of considering
17 adoption of the zoning district map and zoning regulations. No
18 action to adopt shall be taken at the public hearing. Following
19 the public hearing, the zoning committee may respond to questions
20 or desired changes in the map or regulations requested by the
21 commissioners court. The commissioners court may then set a date
22 for action to adopt the zoning district map and zoning regulations.
23 No further public hearings are required but may be held at the
24 discretion of the commissioners court.

25 Sec. 231.207. PERMITS, CERTIFICATES, FEES. (a)

1 Administration of zoning regulations shall include an¹² examination
2 of an applicant's proposed use of land and buildings¹³; if the
3 proposed use is found to be in compliance with the zoning
4 regulations and zoning district map, the county shall issue a
5 permit to use or construct. When the use or construction is
6 completed and in place, the applicant shall request an inspection.
7 On inspection by an official of the county and a finding that the
8 use or construction complies with the terms of the permit issued,
9 the county shall issue a certificate of compliance and occupancy to
10 the applicant. The county may charge an application fee not to
11 exceed \$100.

12 (b) Any use of premises or construction or use of a
13 building, other than for ranching and agricultural purposes, that
14 is located within the zoned portion of the county that occurs
15 subsequent to the adoption by the county of the zoning district map
16 and zoning regulations which does not comply with this procedure
17 for permitting and certification described in Subsection (a) of
18 this section shall be unlawful.

19 Sec. 231.208. AMENDMENTS. (a)(i) The zoning district map and
20 the zoning regulations may be amended after adoption at the
21 discretion of the commissioners court.

22 (i) Amendments to the zoning district map shall be
23 made only if:

24 (A) the present district classification of the
25 land involved was made in error; or

1 (B) the circumstances of the immediate physical^{B/H}
2 or economic environment of the land involved have changed
3 substantially since the time of the designation of the zoning
4 district in which the land is located.

5 ³
6 (2) Amendments shall not be made for a specific
7 property that provide a monopolistic advantage over other nearby
8 properties having similar locational advantages or circumstances of
9 situation.

10 ⁴
11 (3) Amendments may create new boundaries of existing
12 districts but not create an isolated and dissimilar new district.

13 (b) Any landowner may petition or apply for an amendment to
14 the zoning district map involving only land or property owned by
15 such petitioner or applicant. The right to petition or apply for
16 an amendment to a zoning district classification of property does
17 not infer or include a right to a public hearing on the matter. A
18 public hearing is required and necessary only on the effecting of
19 an amendment. The commissioners court may provide for a
20 preliminary review and discussion of applications for amendments to
21 the zoning district map and determine whether or not an application
22 or petition merits further consideration. If the commissioners
23 court determines that a petition or application warrants no further
24 consideration, the matter is closed to further action. The
25 individual thus aggrieved may appeal the matter in a court of
competent jurisdiction. If the commissioners court makes a
determination that the proposed amendment warrants further

1 consideration and may possibly have merit, the court shall order a
2 public hearing on the petition or application.

3 (c) Prior to effecting any amendment, there shall be a
4 public hearing on the proposal to amend before the commissioners
5 court. Public notice of the public hearing must be published in a
6 newspaper of general circulation in the county not less than 15
7 days prior to the date of the public hearing. No action to amend
8 or not to amend shall take place at the public hearing. There
9 shall be a waiting period of not less than one week between the
10 date of the public hearing and the date that the commissioners
11 court acts to amend or not to amend.

12 (d) In the event of a proposed change in the district
13 classification of a property or properties as an amendment to the
14 zoning district map, the owners of all land included in the
15 proposed amendment and located within 500 feet of the property for
16 which an amendment is to be considered shall be notified of the
17 proposed change by United States mail, certified, return receipt
18 requested. The notices shall be posted not less than 15 days prior
19 to the date of the public hearing. In the event that the owners of
20 20 percent or more of the area of the land within 500 feet of the
21 property for which an amendment of the zoning district
22 classification is being proposed, or any one or all of the owners
23 of the land being considered for a change in zoning district
24 classification, file written objections to the proposed amendment
25 or change of the district classification, such change and amendment

1 to the zoning district map can only be effected by an affirmative^{5/16}
2 vote of not less than three-fourths of the members of the
3 commissioners court. Written protests must be presented at the
4 public hearing and signed by the owners of the affected properties.

5 (e) Amendments to the zoning regulations shall be initiated
6 only by the commissioners court. Any action to amend shall be
7 taken at a regular meeting of the court, the agenda item for which
8 shall be a public hearing on the proposed amendment. A public
9 notice regarding the proposed amendment must be published in a
10 newspaper of general circulation in the county not less than 15
11 days prior to the date of the public hearing.

12 Sec. 231.209. VARIANCES. The commissioners court may grant,
13 on the basis of a demonstrated hardship, variances as apply to
14 dimensional requirements of the zoning regulations, but only if the
15 applicant for the variance has not caused the hardship. The land
16 use regulations shall not be subject to the granting of a variance
17 or exception. Changes in permitted uses of land or buildings shall
18 only be effected by an amendment to the zoning district map.

19 Sec. 231.210. REPEAL; REPLACEMENT. (a) The commissioners
20 court may repeal both the zoning regulations and the zoning
21 district map and take no further action to replace them, thus
22 effecting the termination of any form of zoning in the county.
23 Such action may only be taken at a regular meeting of the
24 commissioners court which is a public hearing on the proposed
25 action. Prior to the public hearing there shall be not less than

1 two public notices of the public hearing and the proposal published^{16/}
2 in a newspaper of general circulation in the county. The first
3 notice must be published not less than 15 days prior to the date of
4 the public hearing, and the second notice must be published between
5 three and seven days prior to the date of the public hearing.

6 (b) The commissioners court may repeal either the zoning
7 regulations or the zoning district map or both, following the
8 procedure set forth in Subsection (a) and then replace either or
9 both with new or completely revised documents. In this event, the
10 procedures prescribed by Sections 231.204, 231.205, and 231.206
11 shall be followed.

12 Sec. 231.211. RECORD KEEPING. The zoning district map shall
13 be maintained up-to-date in the offices of the county clerk. A
14 zoning record book shall be maintained in the same office, and the
15 record book shall contain a chronological record of all amendments
16 made to the district map, all variances and special permits issued
17 by the commissioners court, and a record of all applications or
18 petitions made for amendments to the district map and the
19 disposition of the applications or petitions.

20 Sec. 231.212. ENFORCEMENT; PENALTY; REMEDIES. (a) The
21 commissioners court may adopt orders to enforce this subchapter, an
22 order adopted under this subchapter, or a zoning regulation.

23 (b) A person commits an offense if the person violates an
24 order adopted under this subchapter or a zoning regulation. An
25 offense under this subchapter is a misdemeanor punishable by a fine

1 of not less than \$500 nor more than \$1,000. Each day that a^{17/10}
2 violation occurs or continues constitutes a separate offense.
3 Trial shall be in district court.

4 (c) If a building or other structure is erected,
5 constructed, reconstructed, altered, repaired, converted, or
6 maintained or if a building, other structure, or land is used in
7 violation of an order adopted under this subchapter or a zoning
8 regulation, the appropriate county authority, in addition to other
9 remedies, may institute appropriate action to:

- 10 (1) prevent the unlawful action or use;
11 (2) restrain, correct, or abate the violation;
12 (3) prevent the occupancy of the building, other
13 structure, or land; or
14 (4) prevent any illegal act, conduct, business, or use
15 on or about the premises.

16 Sec. 231.213. CONFLICT WITH OTHER LAWS. If a zoning
17 regulation adopted under this subchapter requires a greater width
18 or size of a lot, yard, court, or other open space, requires a
19 lower building height or ^afewer number of stories for building,
20 requires a greater percentage of a lot to be left unoccupied, or
21 otherwise imposes higher standards than those required under
22 another statute or regulation of a state agency or local order or
23 regulation, the regulation adopted under this subchapter controls.
24 If the other statute, state regulation, or local order or
25 regulation imposes higher standards, that statute, regulation, or

1 order controls. ^{13/}17

2 Sec. 231.214. EXCEPTIONS. (a) This subchapter does not
3 authorize the commissioners court to require the removal or
4 destruction of a building or the discontinuation of the use of a
5 building that exists at the time the court implements this
6 subchapter if such use or building does not conform to the
7 regulations of the zoning district in which the property is then
8 located.

9 (b) The storage, placement, or parking of scrap, used, or
10 junk vehicles, machinery, or other types of material or items that
11 are not within an enclosed structure or building, including
12 semi-sheltered flea-market-type activities, that by reason of the
13 implementation of this subchapter become nonconforming with the
14 regulations of the zoning district in which then located may be
15 required by the commissioners court to be removed, the property
16 cleared, and the act or activity terminated within two years of the
17 date of service to the owner and/or occupant of a notice to this
18 effect as ordered by the commissioners court.

19 (c) This subchapter does not authorize the commissioners
20 court to regulate or restrict the right of a landowner, a person
21 acting in the landowner's behalf, or a tenant or lessee of land to
22 construct improvements for agriculture and ranching operations or
23 to otherwise use the land for agriculture or ranching, including
24 range and wildlife management. Commercial feed lots, commercial
25 livestock loading and receiving facilities, commercial livestock

1 and produce processing facilities, commercial disposal of solid or¹⁹¹
2 liquid waste material of any type, and the commercial quarrying or²⁰
3 extraction of sand, gravel, caliche, or stone shall not be
4 considered agricultural or ranching operations and may be regulated
5 by the commissioners court as necessary to protect the public
6 health, safety, peace, morals, and general welfare from the dangers
7 of explosion, flooding, vermin, insects, physical injury,
8 contagious disease, contamination of water supplies, radiation,
9 storage of toxic materials, or other hazards.

10 (d) This subchapter, an order adopted under this subchapter,
11 or a zoning regulation does not apply to the location,
12 construction, maintenance, or use of any buildings, structures, or
13 equipment used in providing telephone service to the public.

14 SECTION 2. The importance of this legislation and the
15 crowded condition of the calendars in both houses create an
16 emergency and an imperative public necessity that the
17 constitutional rule requiring bills to be read on three several
18 days in each house be suspended, and this rule is hereby suspended,
19 and that this Act take effect and be in force from and after its
20 passage, and it is so enacted.

May 19 1993 Engrossed

Ratsy Spaw
Engrossing Clerk

By: Zaffirini

S.B. No. 1411

A BILL TO BE ENTITLED

AN ACT

1 relating to zoning around certain sites in Kinney County; providing
2 penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Chapter 231, Local Government Code, is amended by
5 adding Subchapter J to read as follows:

6 SUBCHAPTER J. ZONING AROUND CERTAIN SITES IN KINNEY COUNTY

7 Sec. 231.201. LEGISLATIVE FINDINGS; PURPOSE. (a) The
8 legislature finds that:

9 (1) the areas and sites and the adjoining and
10 associated lands and environment of Fort Clark, Alamo Village,
11 Kickapoo State Park, and the Seminole Indian Cemetery are or will
12 be frequented for recreational purposes by residents from every
13 part of the state;

14 (2) orderly and compatible development and use of
15 these areas is of concern to the entire state;

16 (3) the protection of the scenic character of the area
17 so as to be of continuing value to the moviemaking industry is of
18 concern to the entire state; and

19 (4) buildings in the area, existing and future, that
20 will be frequented for resort, tourism, or recreational purposes
21 will tend to become congested and to be used in ways that interfere
22 with and that are incompatible with the proper use of the area as a
23 place of recreation, tourism, or visitation to the detriment of the

1 public health, safety, morals, and general welfare.

2 (b) The powers granted under this subchapter are for the
3 purpose of promoting the public health, safety, peace, morals, and
4 general welfare and encouraging recreation.

5 Sec. 231.202. AREAS SUBJECT TO REGULATION. (a) This
6 subchapter applies to:

7 (1) those unincorporated parts of Kinney County
8 located within 12 miles of the Seminole Indian Cemetery;

9 (2) those unincorporated parts of Kinney County
10 located within 12 miles of Fort Clark Springs;

11 (3) those unincorporated parts of Kinney County
12 located within 12 miles of Kickapoo State Park; and

13 (4) those unincorporated parts of Kinney County
14 located within 12 miles of Alamo Village.

15 (b) This subchapter does not apply to:

16 (1) that area known as the Seminole Indian Cemetery
17 and described in Abstract 1, Dolores Soto Beales, Kinney County,
18 Texas;

19 (2) those lands known as Fort Clark Springs, being,
20 more or less, 2,677.91 acres out of Abstract 491, Survey 234, S. A.
21 Maverick, Kinney County, Texas;

22 (3) those lands known as Alamo Village, being, more or
23 less, 26.13 acres out of Abstract 615, Survey 423, Bexar County
24 School Land, Kinney County, Texas; and

25 (4) the following described lands known as Kickapoo

1 State Park, the deed to which is recorded in Volume A-80, pages
2 860-864, Deed Records in Kinney County, Texas: 6,399.36 acres of
3 land, more or less, known as the "A.J. Seargeant Ranch" situated in
4 Kinney and Edwards Counties, Texas, more particularly described as
5 twelve (12) tracts as follows:

6 FIRST TRACT: All of Survey 42, G.C. & S.F. Ry. Co.,
7 Certificate 2379, Block M., containing 640 acres, more or less, and
8 lying in Kinney County, Texas;

9 SECOND TRACT: 560.4 acres, more or less, out of Survey No.
10 49, G.W.T. & P. Ry. Co., Block No. 1, Certificate 1/108, said 560.4
11 acres of Survey No. 49, herein conveyed being described by metes
12 and bounds as follows:

13 BEGINNING at the South West corner of Survey No. 49;

14 THENCE North 70 East 1900 varas to its South East corner;

15 THENCE North 19° 7' West 1900 varas to its North East corner;

16 THENCE South 70 West 1167 varas to a fence;

17 THENCE with said fence South 22 East 315 varas;

18 THENCE South 10 West 160 varas;

19 THENCE South 16 West 166 varas;

20 THENCE South 32 1/2 West 147 varas;

21 THENCE South 72 West 446 varas to the West line of Survey 49;

22 THENCE South 19° 7' East 1234 varas to the PLACE OF
23 BEGINNING, said Survey lying partly in Edwards and partly in Kinney
24 County, Texas;

25 THIRD TRACT: All of Survey No. 50, G.W.T. & P. Ry. Co.,

S.B. No. 1411

1 Certificate 1/108, Block 1, containing 640 acres of land, more or
2 less, lying in Edwards and Kinney Counties, Texas;

3 FOURTH TRACT: 609 acres, more or less, out of Survey No. 51,
4 G.W.T. & P. Ry. Co., Block 1, Certificate 1/109, the 609 acres out
5 of said Survey herein conveyed being described as follows:

6 BEGINNING at the South East corner of Survey No. 51;

7 THENCE South 70 West 1900 varas to its South West corner;

8 THENCE North 19° 7' West 1900 varas to its North West corner;

9 THENCE North 70 East 1082 varas to a fence;

10 THENCE with said fence South 83 East 920 varas to the East
11 line of 51;

12 THENCE South 19° 7' East 1474 varas to the PLACE OF
13 BEGINNING; said survey situated in Edwards and Kinney County,
14 Texas;

15 FIFTH TRACT: 191 acres out of South West part of Survey No.
16 52, G.W.T. & P. Ry. Co., Block 1, Certificate 1/109, that portion
17 of said Survey 52 hereby conveyed being described as follows:

18 BEGINNING at the South West Corner of Survey No. 52 for the
19 South West corner of this tract;

20 THENCE North 70 East 547 varas to the
21 Rocksprings-Brackettville Road;

22 THENCE with said Road North 4 East 160 varas;

23 THENCE North 21 East 498 varas;

24 THENCE North 2 East 418 varas to fence corner;

25 THENCE with fence North 83 West 1230 varas to the West line

1 of Survey 52;

2 THENCE with said West line South 19° 7' East 1474 varas to
3 the PLACE OF BEGINNING, containing 191 acres of land, more or less,
4 situated in Edwards County, Texas;

5 SIXTH TRACT: 69.7 acres, more or less, out of West part of
6 Survey No. 69, G.W.T. & P. Ry. Co., Block 1, Certificate 1/118,
7 that portion of said Survey 69 hereby conveyed being all that part
8 of said survey lying West of the Brackettville-Rocksprings Public
9 Road, and being all that part of said Survey not heretofore
10 conveyed by J. G. Blackman to W. P. Covington, said portion of 69
11 partly in Edwards and partly in Kinney County, Texas;

12 SEVENTH TRACT: All of Survey No. 70, G.W.T. & P. Ry. Co.,
13 Block 1, Certificate 1/118, consisting of 640 acres, more or less,
14 said Survey 70 partly in Kinney and in Edwards Counties, Texas;

15 EIGHTH TRACT: All of Survey No. 71, G.W.T. & P. Ry. Co.,
16 Block 1, Certificate 1/119, containing 640 acres, more or less,
17 lying wholly in Kinney County, Texas;

18 NINTH TRACT: All of Survey No. 72, G.W.T. & P. Ry. Co.,
19 Block 1, Certificate 1/119, containing 640 acres of land, more or
20 less, lying and being wholly in Kinney County, Texas;

21 TENTH TRACT: All of Survey No. 73, G.W.T. & P. Ry. Co.,
22 Block 1, Certificate 1/120, containing 640 acres of land, more or
23 less, lying wholly in Kinney County, Texas;

24 ELEVENTH TRACT: All of Survey No. 74, G.W.T. & P. Ry. Co.,
25 Block 1, Certificate 1/120, containing 694.7 acres, more or less,

1 lying in Kinney County, Texas;

2 TWELFTH TRACT: 443 acres, more or less, out of Survey No.
3 75, G.W.T. & P. Ry. Co., Block 1, Certificate 1/121, the 443 acres
4 of said Survey 75 herein conveyed being all that portion of said
5 Survey lying West of Brackettville-Rocksprings Public Road and
6 being all that part of said Survey not heretofore conveyed by J. G.
7 Blackman to W. P. Covington.

8 SAVE AND EXCEPT 1.98 acres of Survey 75 hereinabove
9 described; 0.69 acres of Survey 70 hereinabove described; and 0.65
10 acres of Survey 69 hereinabove described conveyed to the State of
11 Texas by A. J. Seargeant by right-of-way Deed recorded in Vol.
12 A-37, Page 240 of the Deed Records of Kinney County, Texas.

13 SAVE AND EXCEPT 3.41 acres of Survey 52 hereinabove described
14 and 1.71 acres of Survey 69 hereinabove described conveyed to the
15 State of Texas by Laura Seargeant by right-of-way Deed recorded in
16 Vol. Z, Page 388 of the Deed Records of Edwards County, Texas.

17 The above twelve tracts of land being the same land conveyed
18 to Albert J. Seargeant by J. G. Blackman, by Deed dated November 1,
19 1923, and recorded in Vol. 24, Page 192, Deed Records of Edwards
20 County, Texas, and recorded in Vol. A-20, Page 414, Deed Records of
21 Kinney County, Texas, to which said Deed and the respective records
22 thereof, above stated, each respectively, reference is here made
23 for all purposes.

24 Sec. 231.203. EXTENT OF REGULATIONS; DISTRICTS. (a) The
25 commissioners court order providing for the zoning of a portion of

1 Kinney County shall consist of a zoning district map and zoning
2 regulations.

3 (b) The Commissioners Court of Kinney County, within that
4 portion of the county subject to zoning as provided in this
5 subchapter, may regulate the following:

6 (1) the location and use of buildings, other
7 structures, and land for ranching or agricultural, residential,
8 business, commercial, industrial, or other purposes;

9 (2) the height, number of stories, and size of
10 buildings and other structures;

11 (3) the density of population expressed in dwelling
12 units per acre;

13 (4) the required quantity of off-street parking;

14 (5) the maximum coverage of land with impervious
15 structures or materials;

16 (6) the percentage of the area of a lot that may be
17 occupied by structures;

18 (7) the intensity of development expressed as spacing
19 and size of lots and structures, required open space, size of yards
20 and courts, and type and size of activity related to traffic
21 generation;

22 (8) the placement of water pumping, storage, and
23 treatment facilities other than for ranching or agricultural
24 purposes; and

25 (9) the placement of treatment and disposal facilities

1 of wastewater and solid waste materials.

2 (c) The commissioners court may divide the area in the
3 county that is subject to this subchapter into zoning districts of
4 a number, shape, size, and type or classification that the court
5 considers best for carrying out or implementing this subchapter.
6 Within each zoning district, the commissioners court may regulate
7 the placement, size, height, and use of buildings and other
8 structures and the use of land. The zoning regulations must be
9 uniform for each class or kind of building in a district, but the
10 regulations may vary from district to district.

11 (d) The zoning regulations and the zoning district map shall
12 be adopted with reasonable consideration, among other things, for
13 the character of the land assigned to each district and its
14 suitability for particular uses, with a view of achieving the
15 optimum arrangement of the uses of land and distribution of
16 population and conserving the value of buildings, quality of the
17 environment, and quality of the recreational, historical, scenic,
18 and tourist sites, buildings, and facilities throughout the area.

19 Sec. 231.204. COUNTY ZONING COMMITTEE. (a) The county
20 zoning committee is an ad hoc committee consisting of five persons
21 who are residents of Kinney County.

22 (b) The committee is responsible for the preparation of the
23 comprehensive plan and related policy statements and the proposed
24 zoning district map and the zoning regulations.

25 (c) The members of the county zoning committee shall be

1 appointed by the commissioners court, the method of appointment to
2 be determined by the court. One of the five members of the
3 committee shall be a member of the commissioners court who shall
4 serve ex officio and shall be the chair of the zoning committee.
5 The committee may elect a vice-chair from the membership.

6 (d) Minutes of all meetings of the zoning committee shall be
7 recorded and maintained as permanent records of the county. For
8 this purpose, a recording secretary shall be provided to the
9 committee by the county. Notices of meeting of the county zoning
10 committee shall be given to the members of the commissioners court.

11 (e) On the resignation of a member or termination of
12 membership for any reason, the commissioners court shall, within 30
13 days following the resignation or termination, appoint a
14 replacement member.

15 (f) If the commissioners court finds evidence that the
16 zoning committee has failed to make reasonable progress after a
17 start-up period of 90 days or finds at any time that the members
18 are unable to cooperate with one another or are incapable of
19 producing the desired plan and documents, the commissioners court
20 by an affirmative vote of at least four members may terminate and
21 discharge the zoning committee. In that event, the commissioners
22 court shall appoint new members as prescribed for the original
23 appointments.

24 (g) The commissioners court may appropriate funds for the
25 costs necessary to the functions and responsibilities of the county

1 zoning committee and may employ such staff and consultants as are
2 determined necessary to assist in accomplishing the duties and
3 responsibilities of the committee.

4 (h) When the commissioners court adopts and approves a
5 county zoning district map and zoning regulations, the county
6 zoning committee has completed its duties and responsibilities and
7 ceases to exist.

8 Sec. 231.205. COMPLIANCE WITH COMPREHENSIVE PLAN.

9 (a) Prior to the preparation and adoption of the zoning district
10 map and zoning regulations, the commissioners court shall adopt a
11 comprehensive plan for the zoned area of the county.

12 (b) The comprehensive plan shall consist of, at a minimum,
13 the following elements:

- 14 (1) land use;
15 (2) population distribution and density;
16 (3) flood plain management including constraints on
17 land coverage by impervious structures related to accelerated
18 run-off and potential flooding;
19 (4) major streets and thoroughfares; and
20 (5) protection and enhancement of sites and facilities
21 of importance to tourism, recreation, and historic preservation.

22 (c) Both the comprehensive plan and the zoning regulations
23 must be designed to:

- 24 (1) promote the public health, safety, and general
25 welfare;

- 1 (2) prevent overcrowding of land;
- 2 (3) avoid undue concentration of population;
- 3 (4) provide adequate light and air;
- 4 (5) lessen congestion in the streets and roads;
- 5 (6) facilitate adequate provision of transportation,
6 water, sewers, parks, and other public requirements;
- 7 (7) preserve and enhance the quality of tourist
8 attractions, parks, and historical sites and structures by
9 preventing the use of land and buildings that may be incompatible
10 with and detrimental to such facilities, buildings, and sites for
11 the continued enjoyment of the people of the state; and
- 12 (8) assist in developing and making available to the
13 public such areas, sites, parks, and playgrounds as will enrich the
14 quality of tourism and recreation for the residents of this state
15 and other states and nations.

16 (d) The commissioners court shall act to adopt the
17 comprehensive plan after a public hearing on the plan. Notice of
18 the hearing must be published in a newspaper of general circulation
19 in the county not less than 15 days prior to the date of the
20 hearing.

21 Sec. 231.206. PREPARATION, APPROVAL, AND ADOPTION OF THE
22 ZONING DISTRICT MAP AND ZONING REGULATIONS. (a) Following
23 approval and adoption of the comprehensive plan, the zoning
24 committee shall proceed to prepare the proposed zoning district map
25 and zoning regulations. The proposed zoning district map and the

1 zoning regulations shall be prepared based on and consistent with
2 the adopted comprehensive plan.

3 (b) When the proposed zoning district map and zoning
4 regulations are completed, the zoning committee shall hold one or
5 more public hearings on the map and regulations, as determined
6 appropriate. Notice of the hearing must be published in a
7 newspaper of general circulation in the county not less than 15
8 days prior to the date of the hearing.

9 (c) When the county zoning committee is satisfied with the
10 proposed zoning district map and zoning regulations, it shall
11 approve the map and regulations and recommend to the commissioners
12 court that they be adopted. The commissioners court shall give not
13 less than 15 days prior public notice by publication in a newspaper
14 of general circulation in the county of a public hearing to be held
15 jointly with the zoning committee for the purpose of considering
16 adoption of the zoning district map and zoning regulations. No
17 action to adopt shall be taken at the public hearing. Following
18 the public hearing, the zoning committee may respond to questions
19 or desired changes in the map or regulations requested by the
20 commissioners court. The commissioners court may then set a date
21 for action to adopt the zoning district map and zoning regulations.
22 No further public hearings are required but may be held at the
23 discretion of the commissioners court.

24 Sec. 231.207. PERMITS, CERTIFICATES, FEES.

25 (a) Administration of zoning regulations shall include an

1 examination of an applicant's proposed use of land and buildings;
 2 if the proposed use is found to be in compliance with the zoning
 3 regulations and zoning district map, the county shall issue a
 4 permit to use or construct. When the use or construction is
 5 completed and in place, the applicant shall request an inspection.
 6 On inspection by an official of the county and a finding that the
 7 use or construction complies with the terms of the permit issued,
 8 the county shall issue a certificate of compliance and occupancy to
 9 the applicant. The county may charge an application fee not to
 10 exceed \$100.

11 (b) Any use of premises or construction or use of a
 12 building, other than for ranching and agricultural purposes, that
 13 is located within the zoned portion of the county that occurs
 14 subsequent to the adoption by the county of the zoning district map
 15 and zoning regulations which does not comply with this procedure
 16 for permitting and certification described in Subsection (a) of
 17 this section shall be unlawful.

18 Sec. 231.208. AMENDMENTS. (a)(1) The zoning district map
 19 and the zoning regulations may be amended after adoption at the
 20 discretion of the commissioners court.

21 (2) Amendments to the zoning district map shall be
 22 made only if:

23 (A) the present district classification of the
 24 land involved was made in error; or

25 (B) the circumstances of the immediate physical

1 or economic environment of the land involved have changed
2 substantially since the time of the designation of the zoning
3 district in which the land is located.

4 (3) Amendments shall not be made for a specific
5 property that provide a monopolistic advantage over other nearby
6 properties having similar locational advantages or circumstances of
7 situation.

8 (4) Amendments may create new boundaries of existing
9 districts but not create an isolated and dissimilar new district.

10 (b) Any landowner may petition or apply for an amendment to
11 the zoning district map involving only land or property owned by
12 such petitioner or applicant. The right to petition or apply for
13 an amendment to a zoning district classification of property does
14 not infer or include a right to a public hearing on the matter. A
15 public hearing is required and necessary only on the effecting of
16 an amendment. The commissioners court may provide for a
17 preliminary review and discussion of applications for amendments to
18 the zoning district map and determine whether or not an application
19 or petition merits further consideration. If the commissioners
20 court determines that a petition or application warrants no further
21 consideration, the matter is closed to further action. The
22 individual thus aggrieved may appeal the matter in a court of
23 competent jurisdiction. If the commissioners court makes a
24 determination that the proposed amendment warrants further
25 consideration and may possibly have merit, the court shall order a

1 public hearing on the petition or application.

2 (c) Prior to effecting any amendment, there shall be a
3 public hearing on the proposal to amend before the commissioners
4 court. Public notice of the public hearing must be published in a
5 newspaper of general circulation in the county not less than 15
6 days prior to the date of the public hearing. No action to amend
7 or not to amend shall take place at the public hearing. There
8 shall be a waiting period of not less than one week between the
9 date of the public hearing and the date that the commissioners
10 court acts to amend or not to amend.

11 (d) In the event of a proposed change in the district
12 classification of a property or properties as an amendment to the
13 zoning district map, the owners of all land included in the
14 proposed amendment and located within 500 feet of the property for
15 which an amendment is to be considered shall be notified of the
16 proposed change by United States mail, certified, return receipt
17 requested. The notices shall be posted not less than 15 days prior
18 to the date of the public hearing. In the event that the owners of
19 20 percent or more of the area of the land within 500 feet of the
20 property for which an amendment of the zoning district
21 classification is being proposed, or any one or all of the owners
22 of the land being considered for a change in zoning district
23 classification, file written objections to the proposed amendment
24 or change of the district classification, such change and amendment
25 to the zoning district map can only be effected by an affirmative

1 vote of not less than three-fourths of the members of the
2 commissioners court. Written protests must be presented at the
3 public hearing and signed by the owners of the affected properties.

4 (e) Amendments to the zoning regulations shall be initiated
5 only by the commissioners court. Any action to amend shall be
6 taken at a regular meeting of the court, the agenda item for which
7 shall be a public hearing on the proposed amendment. A public
8 notice regarding the proposed amendment must be published in a
9 newspaper of general circulation in the county not less than 15
10 days prior to the date of the public hearing.

11 Sec. 231.209. VARIANCES. The commissioners court may grant,
12 on the basis of a demonstrated hardship, variances as apply to
13 dimensional requirements of the zoning regulations, but only if the
14 applicant for the variance has not caused the hardship. The land
15 use regulations shall not be subject to the granting of a variance
16 or exception. Changes in permitted uses of land or buildings shall
17 only be effected by an amendment to the zoning district map.

18 Sec. 231.210. REPEAL; REPLACEMENT. (a) The commissioners
19 court may repeal both the zoning regulations and the zoning
20 district map and take no further action to replace them, thus
21 effecting the termination of any form of zoning in the county.
22 Such action may only be taken at a regular meeting of the
23 commissioners court which is a public hearing on the proposed
24 action. Prior to the public hearing there shall be not less than
25 two public notices of the public hearing and the proposal published

1 in a newspaper of general circulation in the county. The first
2 notice must be published not less than 15 days prior to the date of
3 the public hearing, and the second notice must be published between
4 three and seven days prior to the date of the public hearing.

5 (b) The commissioners court may repeal either the zoning
6 regulations or the zoning district map or both, following the
7 procedure set forth in Subsection (a) and then replace either or
8 both with new or completely revised documents. In this event, the
9 procedures prescribed by Sections 231.204, 231.205, and 231.206
10 shall be followed.

11 Sec. 231.211. RECORD KEEPING. The zoning district map shall
12 be maintained up-to-date in the offices of the county clerk. A
13 zoning record book shall be maintained in the same office, and the
14 record book shall contain a chronological record of all amendments
15 made to the district map, all variances and special permits issued
16 by the commissioners court, and a record of all applications or
17 petitions made for amendments to the district map and the
18 disposition of the applications or petitions.

19 Sec. 231.212. ENFORCEMENT; PENALTY; REMEDIES. (a) The
20 commissioners court may adopt orders to enforce this subchapter, an
21 order adopted under this subchapter, or a zoning regulation.

22 (b) A person commits an offense if the person violates an
23 order adopted under this subchapter or a zoning regulation. An
24 offense under this subchapter is a misdemeanor punishable by a fine
25 of not less than \$500 nor more than \$1,000. Each day that a

1 violation occurs or continues constitutes a separate offense.
2 Trial shall be in district court.

3 (c) If a building or other structure is erected,
4 constructed, reconstructed, altered, repaired, converted, or
5 maintained or if a building, other structure, or land is used in
6 violation of an order adopted under this subchapter or a zoning
7 regulation, the appropriate county authority, in addition to other
8 remedies, may institute appropriate action to:

- 9 (1) prevent the unlawful action or use;
10 (2) restrain, correct, or abate the violation;
11 (3) prevent the occupancy of the building, other
12 structure, or land; or
13 (4) prevent any illegal act, conduct, business, or use
14 on or about the premises.

15 Sec. 231.213. CONFLICT WITH OTHER LAWS. If a zoning
16 regulation adopted under this subchapter requires a greater width
17 or size of a lot, yard, court, or other open space, requires a
18 lower building height or a fewer number of stories for building,
19 requires a greater percentage of a lot to be left unoccupied, or
20 otherwise imposes higher standards than those required under
21 another statute or regulation of a state agency or local order or
22 regulation, the regulation adopted under this subchapter controls.
23 If the other statute, state regulation, or local order or
24 regulation imposes higher standards, that statute, regulation, or
25 order controls.

1 Sec. 231.214. EXCEPTIONS. (a) This subchapter does not
2 authorize the commissioners court to require the removal or
3 destruction of a building or the discontinuation of the use of a
4 building that exists at the time the court implements this
5 subchapter if such use or building does not conform to the
6 regulations of the zoning district in which the property is then
7 located.

8 (b) The storage, placement, or parking of scrap, used, or
9 junk vehicles, machinery, or other types of material or items that
10 are not within an enclosed structure or building, including
11 semi-sheltered flea-market-type activities, that by reason of the
12 implementation of this subchapter become nonconforming with the
13 regulations of the zoning district in which then located may be
14 required by the commissioners court to be removed, the property
15 cleared, and the act or activity terminated within two years of the
16 date of service to the owner and/or occupant of a notice to this
17 effect as ordered by the commissioners court.

18 (c) This subchapter does not authorize the commissioners
19 court to regulate or restrict the right of a landowner, a person
20 acting in the landowner's behalf, or a tenant or lessee of land to
21 construct improvements for agriculture and ranching operations or
22 to otherwise use the land for agriculture or ranching, including
23 range and wildlife management. Commercial feed lots, commercial
24 livestock loading and receiving facilities, commercial livestock
25 and produce processing facilities, commercial disposal of solid or

1 liquid waste material of any type, and the commercial quarrying or
2 extraction of sand, gravel, caliche, or stone shall not be
3 considered agricultural or ranching operations and may be regulated
4 by the commissioners court as necessary to protect the public
5 health, safety, peace, morals, and general welfare from the dangers
6 of explosion, flooding, vermin, insects, physical injury,
7 contagious disease, contamination of water supplies, radiation,
8 storage of toxic materials, or other hazards.

9 (d) This subchapter, an order adopted under this subchapter,
10 or a zoning regulation does not apply to the location,
11 construction, maintenance, or use of any buildings, structures, or
12 equipment used in providing telephone service to the public.

13 SECTION 2. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended,
18 and that this Act take effect and be in force from and after its
19 passage, and it is so enacted.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
73rd Regular Session

May 13, 1993

TO: Honorable Ken Armbrister, Chair
Committee on Intergovernmental Relations
Senate Chamber
Austin, Texas

IN RE: Committee Substitute for
Senate Bill No. 1411

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for Senate Bill No. 1411 (relating to zoning around certain sites in Kinney County; providing penalties) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, EC, JOL

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE
73rd Regular Session

April 27, 1993

TO: Honorable Ken Armbrister, Chair
Committee on Intergovernmental Relations
Senate Chamber
Austin, Texas

IN RE: Senate Bill No. 1411
By: Zaffirini

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Senate Bill No. 1411 (relating to zoning around certain sites in Kinney County; providing penalties) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, EC

S.B. No. 1411

By Zaffirini

A BILL TO BE ENTITLED
AN ACT: relating to zoning around certain sites in Kinney County; providing penalties.

4-22
APR 26 1993 Filed with the Secretary of the Senate
Read and referred to Committee on INTERGOVERNMENTAL RELATIONS
Reported favorably _____
5-12-93 Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.
Ordered not printed
MAY 19 1993 Laid before the Senate
Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays
MAY 19 1993 Read second time, _____, and ordered engrossed by: { ~~unanimous consent~~
a viva voce vote
_____ yeas, _____ nays
Caption ordered amended to conform to the body of the bill.
MAY 19 1993 Senate and Constitutional 3 Day Rule suspended by a vote of 31 yeas, 0 nays.
MAY 19 1993 Read third time, _____ and passed by: { A viva voce vote
31 yeas, 0 nays

Betty King
SECRETARY OF THE SENATE

OTHER ACTION:

May 19, 1993 Engrossed
May 19, 1993 Sent to House
Engrossing Clerk Letsy Graw

MAY 19 1993 Received from the Senate
MAY 21 1993 Read first time and referred to Committee on County AFFAIRS
Reported favorably amended, sent to Printer at _____
Printed and Distributed _____
Sent to Committee on Calendars _____
Read Second time (amended): passed to third reading (failed)
by (Non-Record Vote) Record Vote of _____ yeas, _____ nays _____ present not voting.
Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of _____ yeas, _____ nays _____ present not voting.
Read third time (amended): finally passed (failed) by a (Non-Record Vote) Record Vote of _____ yeas, _____ nays _____ present not voting.
Caption ordered amended to conform to body of bill.
Returned to Senate.

CHIEF CLERK OF THE HOUSE
Returned from House without amendment.
Returned from House with _____ amendments.
Concurred in House amendments by a viva voce vote _____ yeas, _____ nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by: _____

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

BILL ANALYSIS

Senate Research Center

S.B. 1411
By: Zaffirini
Intergovernmental Relations
5-7-93
As Filed

BACKGROUND

The areas and sites, and the adjoining and associated lands and environment, of Fort Clark, Alamo Village, Kickapoo State Park and the Seminole Indian Cemetery in Kinney County are for recreational use by residents from every part of the state. Orderly and compatible development of these areas is of concern to residents of the county.

PURPOSE

As proposed, S.B. 1411 gives the Kinney County Commissioners Court the authority to enact zoning regulations in limited areas around Fort Clark, Alamo Village, Kickapoo State Park, and the Seminole Indian Cemetery.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 231, Local Government Code, by adding Subchapter J, as follows:

SUBCHAPTER J. ZONING AROUND CERTAIN SITES IN KINNEY COUNTY

Sec. 231.201. LEGISLATIVE FINDINGS; PURPOSE. (a) Sets forth legislative findings related to zoning around certain sites in Kinney County.

(b) Provides that the powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging recreation.

Sec. 231.202. AREAS SUBJECT TO REGULATION. Sets forth the parts of Kinney County (county) to which this subchapter applies.

Sec. 231.203. EXTENT OF REGULATIONS; DISTRICTS. (a) Requires the commissioners court order providing for the zoning of a portion of the county to consist of a zoning district map and zoning regulations.

(b) Sets forth what the commissioners court is authorized to regulate.

(c) Authorizes the commissioners court to divide the affected area into zoning districts that the court considers best for carrying out or implementing this subchapter. Requires the commissioners court to regulate zoning and that the regulations be uniform, but are authorized to vary.

(d) Requires the zoning regulations and district map to be adopted with reasonable consideration to certain restrictions pertaining to optimum benefit of the land.

Sec. 231.204. COUNTY ZONING COMMITTEE. (a) Provides that the county zoning committee is an ad hoc committee consisting of five persons who are residents of Kinney County.

(b) Sets forth certain documents that the committee is responsible for preparing.

(c) Requires the members of the county zoning committee to be appointed by the commissioners court. Requires one of the five members to be a member of the commissioners court who shall serve ex officio and shall be the chair of the zoning committee. Authorizes the committee to elect a vice-chair from the membership.

(d) Sets forth procedures for the minutes of all meetings.

(e) Requires the commissioners court to appoint a replacement member within 30 days if a member resigns or is terminated.

(f) Authorizes the commissioners court by an affirmative vote of at least four members to terminate and discharge the zoning committee if certain conditions are not met. Requires the commissioners court to appoint new members in that event.

(g) Authorizes the commissioners court to appropriate funds for costs and to employ such staff and consultants as necessary.

(h) Provides that the county zoning committee has completed its duties and responsibilities and ceases to exist when the commissioners court adopts and approves a county zoning district map and zoning regulations.

Sec. 231.205. COMPLIANCE WITH COMPREHENSIVE PLAN. (a) Requires the commissioners court to adopt a comprehensive plan for the zoned area of the county prior to the preparation and adoption of the zoning district map and zoning regulations.

(b) Sets forth the required elements of the comprehensive plan.

(c) Sets forth what the comprehensive plan and the zoning regulations must be designed to do.

(d) Requires the commissioners court to act to adopt the comprehensive plan after a public hearing on the plan. Requires notice of the hearing to be published in certain newspapers within 15 days prior to the date of the hearing.

Sec. 231.206. PREPARATION, APPROVAL, AND ADOPTION OF THE ZONING DISTRICT MAP AND ZONING REGULATIONS. (a) Requires the zoning committee to proceed to prepare the proposed zoning district map and zoning regulations following approval and adoption of the comprehensive plan. Requires the proposed zoning district map and the zoning regulations to be prepared based on and consistent with the adopted comprehensive plan.

(b) Requires the zoning committee to hold one or more public hearings on the map and regulations upon completion of regulations. Requires notice of hearing to be published in certain newspapers within 15 days prior to the date of the hearing.

(c) Requires the county zoning committee to approve the map and regulations and recommend to the commissioners court that they be adopted. Requires the commissioners court to give at least 15 days public notice in certain newspapers. Prohibits action to adopt from being taken at the public hearing. Authorizes the zoning committee to respond to questions and to set a date for action to adopt the zoning district map and regulations. Provides that no further public hearings are required but may be held.

Sec. 231.207. PERMITS, CERTIFICATES, FEES. (a) Requires administration of zoning regulations to include an examination of an applicant's proposed use of land and buildings. Requires the county to issue a permit to use or construct if the proposed use is found to be in compliance. Requires the applicant to request an inspection. Requires the county to issue a certificate of compliance and occupancy if certain conditions are met and provides for fees.

(b) Provides that certain acts are unlawful within the zoned portion that occurs subsequent to adoption of the zoning district map and regulations.

Sec. 231.208. AMENDMENTS. (a) Authorizes the zoning district map and regulations to be amended after adoption at the discretion of the commissioners court. Sets forth conditions under which amendments are required to be made.

(b) Authorizes any landowner to petition or apply for an amendment to the zoning district map involving owned land only. Provides that a public hearing is required and necessary only on the effecting of an amendment. Sets forth procedures for review and discussion of applications for amendments by the commissioners court.

(c) Requires that there be a public hearing on the proposal to amend before the commissioners court, prior to effecting any amendment. Sets forth procedures for the public hearing.

(d) Requires the owners of certain land to be notified of a proposed change in the district classification of a property or properties as an amendment to the zoning district map. Requires the notification to be by U.S. mail, certified, return receipt requested. Requires notices to be posted within 15 days prior to the date of the public hearing. Provides that in the event that certain landowners file written objections, such change and amendment can only be effected by an affirmative vote of at least three-fourths of the members of the commissioners court. Sets forth procedures for written protests.

(e) Requires amendments to the zoning regulations to be initiated only by the commissioners court. Requires any action to amend to be taken at a regular meeting of the court. Requires the agenda item to be a public hearing on the proposed amendment. Requires a public notice to be published in certain newspapers regarding the proposed amendment within 15 days before the date of the public hearing.

Sec. 231.209. VACANCIES. (a) Authorizes the commissioners court to grant, on a certain basis, variances as apply to dimensional requirements of the zoning regulations. Prohibits the land use regulations from being subject to the granting of a variance or exception. Requires changes in permitted uses of land or buildings to only be effected by an amendment to the zoning district map.

Sec. 231.210. REPEAL; REPLACEMENT. (a) Authorizes the commissioners court to repeal both the zoning regulations and the district map and take no further action to replace them thus effecting the termination of any form of zoning in the county. Authorizes such action to take place only at a regular meeting of the commissioners court which is a public hearing on the proposed action. Sets forth procedures for public notices of the public hearing.

(b) Authorizes the commissioners court to repeal, following the procedure set forth in Subsection (a), and replace either or both with new or completely revised documents. Requires procedures prescribed by Sections 231.204, 231.205, and 231.206 to be followed.

Sec. 231.211. RECORD KEEPING. Requires the zoning district map to be maintained up to date in the offices of the county clerk. Requires a zoning record book to be maintained in the same office and sets forth what the record book is required to contain.

Sec. 231.212. ENFORCEMENT; PENALTY; REMEDIES. (a) Authorizes the court to adopt orders to enforce this subchapter.

(b) Provides that a person commits an offense if the person violates an order. Sets forth penalty procedures.

(c) Authorizes the appropriate county authority, in addition to other remedies, to institute appropriate action if a certain violation occurs. Sets forth what the authority is authorized to do to correct any violation.

Sec. 231.213. CONFLICT WITH OTHER LAWS. Provides that a regulation adopted under this subchapter controls if certain standards adopted under this subchapter are higher than those required under another statute or regulation of a state agency or local order or regulation. Provides that if the other statute, state regulation, or local order or regulation imposes higher standards, that statute, regulation, or order controls.

Sec. 231.214. EXCEPTIONS. Provides that this subchapter does not authorize the commissioners court to require certain actions if such use or building does not conform to certain regulations.

(b) Authorizes the commissioners court to order removal, clearance or termination of the act or activity of certain items that are stored, placed or parked within a certain area, that are nonconforming with the regulations of the zoning district. Provides that the owner and/or occupant of a notice to take action within two years of the date of service of a notice.

(c) Provides that this subchapter does not authorize the commissioners court to regulate or restrict the right of certain persons to perform certain acts. Sets forth facilities and

actions that are not considered agricultural or ranching operations and that the commissioners court is authorized to regulate to protect the public from certain dangers.

(d) Prohibits this subchapter, an order adopted under this subchapter, or a zoning regulation from applying to the location, construction, maintenance, or use of any buildings, structures, or equipment used in providing telephone service to the public.

SECTION 2. Emergency clause.
Effective date: upon adjournment.

BILL ANALYSIS

Senate Research Center

C.S.S.B. 1411
By: Zaffirini
Intergovernmental Relations
5-14-93
Committee Substitute

BACKGROUND

The areas and sites, and the adjoining and associated lands and environment, of Fort Clark, Alamo Village, Kickapoo State Park and the Seminole Indian Cemetery in Kinney County are for recreational use by residents from every part of the state. Orderly and compatible development of these areas is of concern to residents of the county.

PURPOSE

As proposed, C.S.S.B. 1411 gives the Kinney County Commissioners Court the authority to enact zoning regulations in limited areas around Fort Clark, Alamo Village, Kickapoo State Park, and the Seminole Indian Cemetery.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 231, Local Government Code, by adding Subchapter J, as follows:

SUBCHAPTER J. ZONING AROUND CERTAIN SITES IN KINNEY COUNTY

Sec. 231.201. LEGISLATIVE FINDINGS; PURPOSE. (a) Sets forth legislative findings related to zoning around certain sites in Kinney County.

(b) Provides that the powers granted under this subchapter are for the purpose of promoting the public health, safety, peace, morals, and general welfare and encouraging recreation.

Sec. 231.202. AREAS SUBJECT TO REGULATION. (a) Sets forth the parts of Kinney County (county) to which this subchapter applies.

(b) Sets forth areas this subchapter does not apply to.

Sec. 231.203. EXTENT OF REGULATIONS; DISTRICTS. (a) Requires the commissioners court order providing for the zoning of a portion of the county to consist of a zoning district map and zoning regulations.

(b) Sets forth what the commissioners court is authorized to regulate.

(c) Authorizes the commissioners court to divide the affected area into zoning districts that the court considers best for carrying out or implementing this subchapter. Requires the commissioners court to regulate zoning and that the regulations be uniform, but are authorized to vary.

(d) Requires the zoning regulations and district map to be adopted with reasonable consideration to certain restrictions pertaining to optimum benefit of the land.

Sec. 231.204. COUNTY ZONING COMMITTEE. (a) Provides that the county zoning committee is an ad hoc committee consisting of five persons who are residents of Kinney County.

(b) Sets forth certain documents that the committee is responsible for preparing.

(c) Requires the members of the county zoning committee to be appointed by the commissioners court. Requires one of the five members to be a member of the

commissioners court who shall serve ex officio and shall be the chair of the zoning committee. Authorizes the committee to elect a vice-chair from the membership.

(d) Sets forth procedures for the minutes of all meetings.

(e) Requires the commissioners court to appoint a replacement member within 30 days if a member resigns or is terminated.

(f) Authorizes the commissioners court by an affirmative vote of at least four members to terminate and discharge the zoning committee if certain conditions are not met. Requires the commissioners court to appoint new members in that event.

(g) Authorizes the commissioners court to appropriate funds for costs and to employ such staff and consultants as necessary.

(h) Provides that the county zoning committee has completed its duties and responsibilities and ceases to exist when the commissioners court adopts and approves a county zoning district map and zoning regulations.

Sec. 231.205. COMPLIANCE WITH COMPREHENSIVE PLAN. (a) Requires the commissioners court to adopt a comprehensive plan for the zoned area of the county prior to the preparation and adoption of the zoning district map and zoning regulations.

(b) Sets forth the required elements of the comprehensive plan.

(c) Sets forth what the comprehensive plan and the zoning regulations must be designed to do.

(d) Requires the commissioners court to act to adopt the comprehensive plan after a public hearing on the plan. Requires notice of the hearing to be published in certain newspapers within 15 days prior to the date of the hearing.

Sec. 231.206. PREPARATION, APPROVAL, AND ADOPTION OF THE ZONING DISTRICT MAP AND ZONING REGULATIONS. (a) Requires the zoning committee to proceed to prepare the proposed zoning district map and zoning regulations following approval and adoption of the comprehensive plan. Requires the proposed zoning district map and the zoning regulations to be prepared based on and consistent with the adopted comprehensive plan.

(b) Requires the zoning committee to hold one or more public hearings on the map and regulations upon completion of regulations. Requires notice of hearing to be published in certain newspapers within 15 days prior to the date of the hearing.

(c) Requires the county zoning committee to approve the map and regulations and recommend to the commissioners court that they be adopted. Requires the commissioners court to give at least 15 days public notice in certain newspapers. Prohibits action to adopt from being taken at the public hearing. Authorizes the zoning committee to respond to questions and to set a date for action to adopt the zoning district map and regulations. Provides that no further public hearings are required but may be held.

Sec. 231.207. PERMITS, CERTIFICATES, FEES. (a) Requires administration of zoning regulations to include an examination of an applicant's proposed use of land and buildings. Requires the county to issue a permit to use or construct if the proposed use is found to be in compliance. Requires the applicant to request an inspection. Requires the county to issue a certificate of compliance and occupancy if certain conditions are met and provides for fees.

(b) Provides that certain acts are unlawful within the zoned portion that occurs subsequent to adoption of the zoning district map and regulations.

Sec. 231.208. AMENDMENTS. (a) Authorizes the zoning district map and regulations to be amended after adoption at the discretion of the commissioners court. Sets forth conditions under which amendments are required to be made.

(b) Authorizes any landowner to petition or apply for an amendment to the zoning district map involving owned land only. Provides that a public hearing is required and necessary only on the effecting of an amendment. Sets forth procedures for review and discussion of applications for amendments by the commissioners court.

(c) Requires that there be a public hearing on the proposal to amend before the commissioners court, prior to effecting any amendment. Sets forth procedures for the public hearing.

(d) Requires the owners of certain land to be notified of a proposed change in the district classification of a property or properties as an amendment to the zoning district map. Requires the notification to be by U.S. mail, certified, return receipt requested. Requires notices to be posted within 15 days prior to the date of the public hearing. Provides that in the event that certain landowners file written objections, such change and amendment can only be effected by an affirmative vote of at least three-fourths of the members of the commissioners court. Sets forth procedures for written protests.

(e) Requires amendments to the zoning regulations to be initiated only by the commissioners court. Requires any action to amend to be taken at a regular meeting of the court. Requires the agenda item to be a public hearing on the proposed amendment. Requires a public notice to be published in certain newspapers regarding the proposed amendment within 15 days before the date of the public hearing.

Sec. 231.209. VACANCIES. (a) Authorizes the commissioners court to grant, on a certain basis, variances as apply to dimensional requirements of the zoning regulations. Prohibits the land use regulations from being subject to the granting of a variance or exception. Requires changes in permitted uses of land or buildings to only be effected by an amendment to the zoning district map.

Sec. 231.210. REPEAL; REPLACEMENT. (a) Authorizes the commissioners court to repeal both the zoning regulations and the district map and take no further action to replace them thus effecting the termination of any form of zoning in the county. Authorizes such action to take place only at a regular meeting of the commissioners court which is a public hearing on the proposed action. Sets forth procedures for public notices of the public hearing.

(b) Authorizes the commissioners court to repeal, following the procedure set forth in Subsection (a), and replace either or both with new or completely revised documents. Requires procedures prescribed by Sections 231.204, 231.205, and 231.206 to be followed.

Sec. 231.211. RECORD KEEPING. Requires the zoning district map to be maintained up to date in the offices of the county clerk. Requires a zoning record book to be maintained in the same office and sets forth what the record book is required to contain.

Sec. 231.212. ENFORCEMENT; PENALTY; REMEDIES. (a) Authorizes the court to adopt orders to enforce this subchapter.

(b) Provides that a person commits an offense if the person violates an order. Sets forth penalty procedures.

(c) Authorizes the appropriate county authority, in addition to other remedies, to institute appropriate action if a certain violation occurs. Sets forth what the authority is authorized to do to correct any violation.

Sec. 231.213. CONFLICT WITH OTHER LAWS. Provides that a regulation adopted under this subchapter controls if certain standards adopted under this subchapter are higher than those required under another statute or regulation of a state agency or local order or regulation. Provides that if the other statute, state regulation, or local order or regulation imposes higher standards, that statute, regulation, or order controls.

Sec. 231.214. EXCEPTIONS. Provides that this subchapter does not authorize the commissioners court to require certain actions if such use or building does not conform to certain regulations.

(b) Authorizes the commissioners court to order removal, clearance or termination of the act or activity of certain items that are stored, placed or parked within a certain area, that are nonconforming with the regulations of the zoning district. Provides that the owner and/or occupant of a notice to take action within two years of the date of service of a notice.

(c) Provides that this subchapter does not authorize the commissioners court to regulate or restrict the right of certain persons to perform certain acts. Sets forth facilities and actions that are not considered agricultural or ranching operations and that the commissioners court is authorized to regulate to protect the public from certain dangers.

(d) Prohibits this subchapter, an order adopted under this subchapter, or a zoning regulation from applying to the location, construction, maintenance, or use of any buildings, structures, or equipment used in providing telephone service to the public.

SECTION 2. Emergency clause.
Effective date: upon adjournment.